

**WSR 22-13-003**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-89—Filed June 1, 2022, 3:46 p.m., effective June 2, 2022]

Effective Date of Rule: June 2, 2022.

Purpose: The purpose of this emergency rule is to:

(1) Postpone the implementation of the mandatory use of electronic fish receiving forms for deliveries of Dungeness crab, ocean pink shrimp, pink shrimp, coonstripe shrimp, sidestripe shrimp, spot shrimp, and any other lawfully landed species, from coastal and Puget Sound licensed commercial fisheries.

(2) This maintains the requirement for receivers to obtain a voluntary agreement from the department to use electronic fish tickets to report deliveries of Dungeness crab, ocean pink shrimp, pink shrimp, coonstripe shrimp, sidestripe shrimp, spot shrimp, or any other lawfully landed species from coastal and Puget Sound licensed commercial shellfish fishers.

Citation of Rules Affected by this Order: Amending WAC 220-352-035.

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: Delayed deployment of a department-developed mobile electronic catch reporting application, required to implement mandatory electronic fish receiving tickets, is necessary to complete dedicated commission rule making (WSR 22-11-084). The department is proposing to amend commercial rules to require additional information when submitting an electronic fish receiving ticket while using mobile electronic catch reporting software or applications. The rule-making file can be found here <https://wdfw.wa.gov/about/regulations/development/electronic-fish-receiving-tickets>.

The delay in implementing permanent rules is necessary to provide time to complete commission rule making, finish deployment of the application, and train constituents in the use of new technologies. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.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: June 1, 2022.

Kelly Susewind

NEW SECTION

**WAC 220-352-03500B Requirement to prepare fish receiving ticket forms completely and accurately—Determining the appropriate form.**  
Effective June 2, 2022, until further notice, the provisions of WAC 220-352-035 (2) (d) are suspended. All other provisions of WAC 220-352-035 not contained herein remain in effect unless otherwise altered by emergency rule.

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**WSR 22-13-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-90—Filed June 1, 2022, 3:54 p.m., effective June 1, 2022, 3:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open salmon seasons in Cascade River seven days per week. This rule also maintains salmon seasons for the North Fork Nooksack River and Skagit River that were originally set in WSR 22-12-021 on May 28, 2020.

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

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

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

Reasons for this Finding: This fishery was previously scheduled to be open four days per week to prevent gear conflicts with treaty fishers. The treaty fishery has concluded; therefore, the closure days are no longer necessary. 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: June 1, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000C Freshwater exceptions to statewide rules—Puget Sound.** Effective immediately, through July 15, 2022, the following provisions of WAC 220-312-040 regarding salmon seasons for the Cascade River, Nooksack River, North Fork, and Skagit River, shall be modified during the dates and in locations listed and described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River** (Skagit Co.): From mouth to Rockport-Cascade Rd. Bridge: Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

(2) **Nooksack River, North Fork** (Whatcom Co.): From the Hwy. 9 Bridge to the yellow marker at the upstream side of the Kendall Hatchery: Salmon: Effective immediately, through June 12, 2022:

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

(b) Night closure and Anti-snagging rule in effect.

(3) **Skagit River** (Skagit Co.):

From Hwy. 530 Bridge at Rockport to Cascade River Rd. (Marblemount Bridge): Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

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#### REPEALER

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

WAC 220-312-04000B Freshwater exceptions to statewide rules—Puget Sound. (22-79)

**WSR 22-13-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-87—Filed June 2, 2022, 12:04 p.m., effective June 3, 2022]

Effective Date of Rule: June 3, 2022.

Purpose: The purpose of this emergency rule is to open hatchery Chinook retention in the lower Willapa River.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

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

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

Reasons for this Finding: In an effort to increase prey abundance for southern resident killer whales, Washington department of fish and wildlife (WDFW) released 567,560 spring Chinook in May of 2019 from the Fork's Creek Hatchery on the Willapa River (Pacific County). As a result of that release, WDFW anticipates a limited number of four-year returning Chinook available for in-river harvest opportunity.

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: June 2, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-02000T Freshwater exceptions to statewide rules—Coast.** Effective June 3, through July 31, 2022, the following provisions of WAC 220-312-020, regarding recreational Chinook retention for the Willapa River (Pacific Co.) shall be modified as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) From the mouth (City of South Bend boat launch to WDFW access at mouth of Ward Creek/Wilson Creek:**

Salmon:

(a) Daily limit 1. Release all salmon other than hatchery Chinook.

(b) Night closure.

(c) Anglers may fish with two poles with Two-pole Endorsement.

**(2) From the WDFW access at mouth of Ward Creek/Wilson Creek to second bridge on Camp One Rd.:**

Salmon:

(a) Daily limit 1. Release all salmon other than hatchery Chinook.

(b) Night closure.

(c) Stationary gear restriction in effect.

**(3) From second bridge on Camp One Rd. upstream to mouth of Mill Creek, approx. 0.5 miles:**

Salmon:

(a) Daily limit 1. Release all salmon other than hatchery Chinook.

(b) Night closure.

(c) Stationary gear rule in effect.

(d) Fishing from a floating device prohibited.

**(4) From Mill Creek to Hwy. 6 Bridge (near the town of Lebam):**

Salmon:

(a) Daily limit 1. Release all salmon other than hatchery Chinook.

(b) Night closure.

(c) Stationary gear rule in effect.

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

**WSR 22-13-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed June 2, 2022, 2:07 p.m., effective June 2, 2022, 2:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-400-0030 Who is eligible for refugee cash assistance?, 388-466-0120 Refugee cash assistance (RCA), and 388-466-0150 Refugee employment and training services.

These amendments are necessary to align department policies with authorization from the Office of Refugee Resettlement director to expand the eligibility period for RCA from eight months to 12 months, pursuant to 45 C.F.R. § 400.211. This change must be implemented immediately to allow access to benefits for these individuals, pursuant to federal law.

Citation of Rules Affected by this Order: Amending WAC 388-400-0030, 388-466-0120, and 388-466-0150.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 74.08A.120.

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: A Federal Register notice announcing the increase in the RCA eligibility period from eight months to 12 [months] was published on March 28, 2022.

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

Date Adopted: June 2, 2022.

Katherine I. Vasquez  
Rules Coordinator

**SHS-4930.3**

AMENDATORY SECTION (Amending WSR 04-19-135, filed 9/21/04, effective 10/22/04)

**WAC 388-400-0030 Who is eligible for refugee cash assistance?**

(1) To be eligible for refugee cash assistance (RCA), you must:

- (a) Provide the name of the voluntary agency (VOLAG) which resettled you;
- (b) Meet the immigration status requirements of WAC 388-466-0005;
- (c) Meet employment and training requirements of WAC 388-466-0150;
- (d) Meet income and resource requirements of WAC 388-466-0140;
- and
- (e) Report changes of circumstances as required under WAC 388-418-0005.
- (2) You are not eligible to receive RCA if you:
- (a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income;
- (b) Have been denied TANF or have been terminated from TANF due to intentional noncompliance with TANF eligibility requirements; or
- (c) Are a full-time student in an institution of higher education.
- (3) We determine your eligibility and benefit level for RCA using the TANF payment standards under WAC 388-478-0020.
- (4) If you are eligible for RCA you may also be eligible for additional requirements for emergent needs under WAC 388-436-0002.
- (5) If you meet the requirements of this section you are eligible for refugee cash assistance only during the (~~eight~~) 12-month period beginning in the first month you entered the United States (WAC 388-466-0120).

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057. WSR 04-19-135, § 388-400-0030, filed 9/21/04, effective 10/22/04. Statutory Authority: RCW 74.08.090, 74.04.050, 74.08A.320, and 7 C.F.R. § 400.65, § 400.66, § 400.67, § 400.68, and § 400.69. WSR 02-09-051, § 388-400-0030, filed 4/12/02, effective 5/13/02. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 01-06-031, § 388-400-0030, filed 3/2/01, effective 4/1/01; WSR 98-16-044, § 388-400-0030, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 20-24-073, filed 11/24/20, effective 12/25/20)

**WAC 388-466-0120 Refugee cash assistance (RCA). (1) Who can apply for refugee cash assistance (RCA)?**

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within (~~thirty~~) 30 days.

**(2) How do I know if I qualify for RCA?**

You may be eligible for RCA if you meet all of the following conditions:

- (a) You have resided in the United States for less than (~~eight~~) 12 months;
- (b) You meet the immigration status requirements of WAC 388-466-0005;
- (c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;
- (d) You meet the work and training requirements of WAC 388-466-0150; and
- (e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.



**(3) What are the other reasons for not being eligible for RCA?**

You may not be able to get RCA if you:

- (a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income (SSI); or
- (b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or
- (c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within (~~(thirty)~~) 30 consecutive days immediately prior to your application for RCA; or
- (d) Are a full-time student in a college or university.

**(4) If I am an asylee, what date will be used as an entry date?**

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999, as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000, and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

**(5) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?**

You are eligible for RCA to the same extent as a refugee if you are:

- (a) An adult victim, (~~(eighteen)~~) 18 years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS), and you meet eligibility requirements in subsections (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter;
- (b) A child victim under the age of (~~(eighteen)~~) 18, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement;
- (c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

**(6) Does getting a onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?**

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

**(7) What is the effective date of my eligibility for RCA?**

The date DSHS has sufficient information to make an eligibility decision is the date your RCA begins.

**(8) When does my RCA end?**

(a) Your RCA ends on the last day of the (~~(eighth)~~) 12 month starting with the month of your arrival to the United States. Count the (~~(eight)~~) 12 months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, 2000, May is your first month and (~~(December 2000)~~) April 2001 is your last month of RCA.

(b) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA.

(c) You may receive RCA benefits for more months if the federal office of refugee resettlement extends the eligibility period.

**(9) Are there other reasons why RCA may end?**

Your RCA also ends if:

- (a) You move out of Washington state;

(b) Your unearned income (~~(and/)~~) or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

**(10) Will my spouse be eligible for RCA, if he/she arrives in the U.S. after me?**

When your spouse arrives in the United States, DSHS determines his/her eligibility for RCA and (~~(/or)~~) other income assistance programs.

(a) Your spouse may be eligible for up to (~~(eight)~~) 12 months of RCA based on his/her date of arrival into the United States.

(b) If you live together, you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on you and your spouse's combined income and resources (WAC 388-466-0140).

**(11) Can I get additional money in an emergency?**

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

**(12) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?**

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or an administrative hearing (WAC 388-02-0090). Your request must be made within (~~(ninety)~~) 90 days of the date of the decision or action.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250 and 45 C.F.R. § 400.300, 8 U.S.C. § 1522 (e)(1). WSR 20-24-073, § 388-466-0120, filed 11/24/20, effective 12/25/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250 and 2011 1st sp.s. c 15. WSR 13-03-137, § 388-466-0120, filed 1/23/13, effective 2/23/13; WSR 12-19-037, § 388-466-0120, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.320, Pub. L. No. 110-181, National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602; Office of Refugee Resettlement State Letter 09-17 from April 9, 2009; and federal guidance issued on May 15, 2009, by the Food and Nutrition Service, United States Department of Agriculture. WSR 09-21-046, § 388-466-0120, filed 10/14/09, effective 11/4/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-466-0120, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.08.090, 74.08A.320. WSR 02-04-057, § 388-466-0120, filed 1/30/02, effective 2/1/02.]

AMENDATORY SECTION (Amending WSR 16-05-034, filed 2/9/16, effective 3/15/16)

**WAC 388-466-0150 Refugee employment and training services. (1)  
What are refugee employment and training services?**

Refugee employment and training services provided to eligible refugees may include information and referral, employment oriented

case management, job development, job placement, job retention, wage progression, skills training, on-the-job training, counseling and orientation, English as a second language, and vocational English training.

**(2) Am I required to participate in refugee employment and training services?**

If you are receiving refugee cash assistance (RCA) you are required to participate in refugee employment and training services, unless you are exempt.

**(3) How do I know if I am exempt from mandatory employment and training requirements?**

You may be exempt from participation in employment and training requirements if you are:

(a) An adult with a severe and chronic disability as defined below:

(i) You have been assessed by a DSHS SSI facilitator as likely to be approved for SSI and are required to apply for SSI. Your SSI application status may be verified through the SSI facilitator (~~(and/)~~) or state data exchange; or

(ii) Your disability is a severe and chronic mental, physical, emotional, or cognitive impairment that prevents you from working and is expected to last at least (~~(twelve))~~ 12 months. Your disability must be verified by documentation from a behavioral health organization (BHO), (~~(and/or)~~) regional service area (RSA), or evidence from another medical or mental health professional; or

(b) Required to be in the home to care for another adult with disabilities when:

(i) The adult with disabilities cannot be left alone for significant periods of time;

(ii) No adult other than yourself is available and able to provide the care;

(iii) The adult with the disability is related to you;

(iv) You are unable to participate in work activities because you are required to be in the home to provide care; and

(v) The disability and your need to care for your disabled adult relative is verified by documentation from the developmental disabilities administration (DDA), division of vocational rehabilitation (DVR), home and community services (HCS), division of behavioral health and recovery (DBHR), (~~(and/or)~~) a behavioral health organization (BHO), (~~(and/or)~~) regional service area (RSA), or evidence from another medical or mental health professional.

(c) (~~(Sixty))~~ 60 years of age or older.

(d) Unable to participate in work activities because you are the victim of family violence.

**(4) If I am required to participate, what do I have to do?**

You are required to:

(a) Register with your employment service provider;

(b) Accept and participate in all employment opportunities, training, or referrals, determined appropriate by the department.

**(5) What happens if I do not follow these requirements?**

If you refuse without good reason to cooperate with the requirements, you are subject to the following penalties:

(a) If you are applying for refugee cash assistance, you will be ineligible for (~~(thirty))~~ 30 days from the date of your refusal to accept work or training opportunity; or

(b) If you are already receiving refugee cash assistance, your cash benefits will be subject to financial penalties.

(c) The department will notify your voluntary agency (VOLAG) if financial penalties take place.

**(6) What are the penalties to my grant?**

The penalties to your grant are:

(a) If the assistance unit includes other individuals as well as yourself, the cash grant is reduced by the sanctioned refugee's amount for three months after the first occurrence. For the second occurrence, the financial penalty continues for the remainder of the sanctioned refugee's (~~eight~~) 12-month eligibility period.

(b) If you are the only person in the assistance unit your cash grant is terminated for three months after the first occurrence. For the second occurrence, your grant is terminated for the remainder of your (~~eight~~) 12-month eligibility period.

**(7) How can I avoid the penalties?**

You can avoid the penalties, if you accept employment or training before the last day of the month in which your cash grant is closed.

**(8) What is considered a good reason for not being able to follow the requirements?**

You have a good reason for not following the requirements if it was not possible for you to stay on the job or to follow through on a required activity due to an event outside of your control. See WAC 388-310-1600(3) for examples.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.08.090. WSR 16-05-034, § 388-466-0150, filed 2/9/16, effective 3/15/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and 2011 1st sp.s. c 15. WSR 13-18-004, § 388-466-0150, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.08.090. WSR 00-22-085, § 388-466-0150, filed 10/31/00, effective 12/1/00.]

## WSR 22-13-016

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed June 3, 2022, 8:49 a.m., effective June 3, 2022, 8:49 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-338-020 and 246-338-026, medical test site licensure and notification requirements. The department of health (department) is adopting an emergency rule to amend WAC 246-338-026 mandating reporting of test results intended to detect SARS-CoV-2 or diagnose a possible case of the coronavirus disease 2019 (COVID-19) in alignment with the federal changes published in 85 F.R. 54820 on September 2, 2020. WAC 246-338-020 is amended to add language referencing the new subsection in WAC 246-338-026. These changes will allow the new reporting, inspection, and fining processes in compliance with the new federal requirements which will ensure the current clinical laboratory improvement amendments (CLIA) exempt status is not threatened and will respond to the current public health emergency created by the COVID-19 pandemic. This is the sixth emergency rule for these amendments. It continues without change the emergency rule that was filed on February 4, 2022, under WSR 22-05-013; and the prior filings on October 8, 2021, under WSR 21-21-013; June 11, 2021, under WSR 21-13-045; February 12, 2021, under WSR 21-05-048; and October 15, 2020, under WSR 20-21-062.

Citation of Rules Affected by this Order: Amending WAC 246-338-020 and 246-338-026.

Statutory Authority for Adoption: RCW 70.42.060.

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: This emergency rule updates Washington rules to align with updated federal requirements published in 85 F.R. 54820, which include new reporting and inspection requirements and fines for nonreporting. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest and federal compliance requirements, which could threaten the current CLIA exempt status. The department continues to consider options for continuing this requirement under a permanent rule-making process, recognizing the temporary nature of the federal regulation. The department will make this determination when it learns if Centers for Medicare and Medicaid Services (CMS) intends to add permanent regulations to the C.F.R. requiring laboratories to report SARS-CoV-2 data to the United States Department of Health and Human Services. If CMS adds a permanent rule after the public health emergency ends, the department will need to add a permanent rule to align with CMS's CLIA program.

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

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

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

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

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

Date Adopted: May 31, 2022.

Kristin Peterson, JD  
Deputy Secretary  
Policy and Planning  
for Umair A. Shah, MD, MPH  
Secretary

## OTS-2664.2

AMENDATORY SECTION (Amending WSR 02-12-105, filed 6/5/02, effective 7/6/02)

### **WAC 246-338-020 Licensure—Types of medical test site licenses.**

After July 1, 1990, any person advertising, operating, managing, owning, conducting, opening, or maintaining a medical test site must first obtain a license from the department. License types are described in Table 020-1.

#### **(1) Certificate of waiver.**

Applicable if the medical test site performs only the tests classified as waived.

#### **(2) Provider performed microscopic procedures (PPMP).**

Applicable if the medical test site restricts its testing performance to one or more of the following moderate complexity tests performed by one of the licensed professionals listed, in conjunction with a patient's visit. In addition, the medical test site can perform tests classified as waived with this type of license.

(a) PPMP may be performed only by one of the following licensed professionals:

(i) Physician licensed under chapter 18.71 RCW, Physicians; chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW, Podiatric medicine and surgery;

(ii) Advanced registered nurse practitioner, licensed under chapter 18.79 RCW, Nursing care;

(iii) Midwife licensed under chapter 18.50 RCW, Midwifery;

(iv) Physician assistant licensed under chapter 18.71A RCW, Physician assistants;

(v) Naturopath licensed under chapter 18.36A RCW, Naturopathy; or

(vi) Dentist licensed under chapter 18.32 RCW, Dentistry.

(b) Microscopic procedures authorized under a PPMP license are:

(i) All direct wet mount preparations for the presence or absence of bacteria, fungi, parasites, and human cellular elements;

(ii) All potassium hydroxide (KOH) preparations;

(iii) Pinworm examinations;

(iv) Fern tests;

(v) Postcoital direct, qualitative examinations of vaginal or cervical mucous;

(vi) Urine sediment examinations;

(vii) Nasal smears for granulocytes;

(viii) Fecal leukocyte examinations;

(ix) Qualitative semen analysis (limited to the presence or absence of sperm and detection of motility); and

(x) Any other tests subsequently categorized under CLIA as provider-performed microscopy procedures.

(3) **Moderate/high complexity.**

(a) **Low volume, Category A-J**, as described in Table 990-1.

Applicable if the medical test site performs any tests that are not classified as waived or qualified as PPMP under subsection (2) of this section. Under this type of license, the medical test site may also perform tests classified as waived.

(b) **Accredited: Low volume, Category A-J**, as described in Table 990-1.

Applicable if the medical test site performs any tests that are not classified as waived, and is accredited **and** inspected by an accreditation organization approved by the department under WAC 246-338-040. Under this type of license, the medical test site may also perform tests classified as waived.

**020-1 Table of Requirements for Each License Type**

LICENSE TYPE	REQUIREMENTS	INSPECTIONS	
		TYPE	FREQUENCY
(1) <b>Certificate of Waiver</b>	<ul style="list-style-type: none"> <li>• Restrict testing to tests classified as waived.</li> <li>• Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/ Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections.</li> <li>• Follow manufacturers' instructions for performing the test.</li> </ul>	<ul style="list-style-type: none"> <li>• Complaint</li> <li>• Technical assistance</li> <li>• <u>As required to assess compliance with WAC 246-338-026(7)</u></li> </ul>	<ul style="list-style-type: none"> <li>• When indicated</li> </ul>
(2) <b>PPMP</b>	<ul style="list-style-type: none"> <li>• Restrict testing to tests classified as PPMP or waived.</li> <li>• Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/ Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections; WAC 246-338-050 Proficiency Testing (if applicable); WAC 246-338-060 Personnel; WAC 246-338-070 Records; WAC 246-338-080 Quality Assurance; WAC 246-338-090 Quality Control.</li> <li>• Follow manufacturers' instructions for performing the test.</li> </ul>	<ul style="list-style-type: none"> <li>• Complaint</li> <li>• Technical assistance</li> <li>• <u>As required to assess compliance with WAC 246-338-026(7)</u></li> </ul>	<ul style="list-style-type: none"> <li>• When indicated</li> </ul>
(3) <b>Moderate/High Complexity</b>	<ul style="list-style-type: none"> <li>• Perform tests classified as moderate or high complexity.</li> </ul>	<ul style="list-style-type: none"> <li>• Initial</li> </ul>	<ul style="list-style-type: none"> <li>• First 6 months of license</li> </ul>
(a) <b>Low Volume, Category A-J</b>			

LICENSE TYPE	REQUIREMENTS	INSPECTIONS	
		TYPE	FREQUENCY
(b) <b>Accredited: Low Volume,</b>	<ul style="list-style-type: none"> <li>• Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/ Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections; WAC 246-338-050 Proficiency Testing (if applicable); WAC 246-338-060 Personnel; WAC 246-338-070 Records; WAC 246-338-080 Quality Assurance; WAC 246-338-090 Quality Control.</li> <li>• Follow manufacturers' instructions for performing test.</li> <li>• Perform tests classified as moderate or high complexity.</li> </ul>	<ul style="list-style-type: none"> <li>• Routine</li> <li>• Complaint</li> <li>• On-site follow-up</li> <li>• Technical assistance</li> <li>• <u>As required to assess compliance with WAC 246-338-026(7)</u></li> </ul>	<ul style="list-style-type: none"> <li>• Every 2 years</li> <li>• When indicated</li> <li>• When indicated</li> <li>• When indicated</li> </ul>
<b>Category A-J</b>	<ul style="list-style-type: none"> <li>• Meet the requirements of WAC 246-338-020 Licensure—Types of Medical Test Site Licenses; WAC 246-338-022 Initial Application for Medical Test Site License; WAC 246-338-024 License Renewal/ Reapplication Process; WAC 246-338-026 Notification Requirements; WAC 246-338-028 On-site Inspections; WAC 246-338-050 Proficiency Testing (if applicable); WAC 246-338-060 Personnel; WAC 246-338-070 Records; WAC 246-338-080 Quality Assurance; WAC 246-338-090 Quality Control.</li> <li>• Follow manufacturers' instructions for performing the test.</li> <li>• Submit to the department upon request, or authorize the accreditation organization to submit:</li> <li>• Proof of accreditation;</li> <li>• On-site inspection results;</li> <li>• Statement of deficiencies;</li> <li>• Plan of correction for the deficiencies cited;</li> <li>• Any disciplinary action and results of any disciplinary action taken by the accreditation organization against the medical test site.</li> </ul>	<ul style="list-style-type: none"> <li>• Validation</li> <li>• Complaint</li> <li>• On-site follow-up</li> <li>• Technical assistance</li> <li>• <u>As required to assess compliance with WAC 246-338-026(7)</u></li> </ul>	<ul style="list-style-type: none"> <li>• 2.5% of accredited sites annually</li> <li>• When indicated</li> <li>• When indicated</li> <li>• When indicated</li> </ul>

[Statutory Authority: RCW 70.42.090 and 2002 c 371. WSR 02-12-105, § 246-338-020, filed 6/5/02, effective 7/6/02. Statutory Authority: RCW 70.42.005, 70.42.060. WSR 01-02-069, § 246-338-020, filed 12/29/00, effective 1/29/01. Statutory Authority: RCW 70.42.005, 70.42.060 and chapter 70.42 RCW. WSR 00-06-079, § 246-338-020, filed 3/1/00, effective 4/1/00. Statutory Authority: RCW 70.42.005. WSR 97-14-113, § 246-338-020, filed 7/2/97, effective 8/2/97. Statutory Authority: Chapter 70.42 RCW. WSR 94-17-099, § 246-338-020, filed 8/17/94, effective 9/17/94; WSR 93-18-091 (Order 390), § 246-338-020, filed 9/1/93, effective 10/2/93; WSR 91-21-062 (Order 205), § 246-338-020, filed



10/16/91, effective 10/16/91. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-338-020, filed 12/27/90, effective 1/31/91. Statutory Authority: Chapter 70.42 RCW. WSR 90-20-017 (Order 090), § 248-38-020, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 00-06-079, filed 3/1/00, effective 4/1/00)

- WAC 246-338-026 Notification requirements.** (1) The owner must notify the department in writing at least thirty days prior to the date of opening or closing the medical test site.
- (2) The owner must notify the department in writing within thirty days of any changes in:
- (a) Name of site;
  - (b) Director;
  - (c) Location of site;
  - (d) Tests, specialties, and subspecialties; and
  - (e) Test methodologies.
- (3) Proposed change of ownership. Transfer or reassignment of a license is prohibited without the department's approval, and must be initiated by the current owner sending a written notice to the department thirty days prior to transfer.
- (a) The current owner of a medical test site must notify the department, in writing at least thirty days prior to the change and provide the following information:
- (i) Name, address, and federal tax ID number of the medical test site;
  - (ii) Full name, address, and location of the current owner and prospective new owner; and
  - (iii) The date of the proposed change of ownership.
- (b) The prospective new owner must submit the following information at least thirty days prior to the change of ownership:
- (i) New name and federal tax ID number of the medical test site;
  - (ii) Changes in technical personnel and supervisors;
  - (iii) Any changes in tests, specialties, and subspecialties; and
  - (iv) Other information as requested by the department.
- (4) The medical test site must authorize an approved accreditation organization to notify the department of the test site's compliance with the standards of the accreditation organization.
- (5) The owner of an accredited license must notify the department in writing within thirty days of the medical test site having its accreditation denied or terminated by the accreditation organization or voluntarily dropping its accreditation status.
- (6) The owner must notify the department in writing within thirty days of any convictions of fraud and abuse, false billing, or kick-backs under state or federal law.
- (7) During the public health emergency, as defined in 42 C.F.R. 400.200, each medical test site that performs a test that is intended to detect SARS-CoV-2 or to diagnose a possible case of COVID-19 must report SARS-CoV-2 test results to HHS in such form and manner, and at such timing and frequency, as the department may prescribe. For the purposes of this subsection, "SARS-CoV-2 test" means any test that is intended to detect SARS-CoV-2 or diagnose a possible case of COVID-19.

[Statutory Authority: RCW 70.42.005, 70.42.060 and chapter 70.42 RCW.  
WSR 00-06-079, § 246-338-026, filed 3/1/00, effective 4/1/00.]

**WSR 22-13-017**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-92—Filed June 3, 2022, 10:14 a.m., effective June 3, 2022, 10:14 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require adoption of harvest seasons contained in this emergency rule. This emergency rule:

(1) Opens a commercial spot shrimp cleanup fishery in Marine Fish-Shellfish Area 26B-2 in Puget Sound immediately.

(2) Closes commercial nonspot shrimp fishing in Region 1C in Puget Sound on June 7, 2022.

(3) Allows spot shrimp commercial harvest from select subareas and subregions simultaneously in a single day.

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

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

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

Reasons for this Finding: This emergency rule is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound. This rule allows harvesters to both respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with co-manager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 2, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-52000U Commercial shrimp pot fishery—Puget Sound.**  
Notwithstanding the provisions of WAC 220-340-520, immediately, until

further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful to fish for shrimp for commercial purposes using pot gear in Puget Sound except as provided for in this section:

(1) In all areas fishers are limited to a maximum of 100 spot shrimp pots, as defined in WAC 220-340-520 (5)d, and a maximum of 100 non-spot shrimp pots, as defined in WAC 220-340-520 (5)e.

(2) Spot Shrimp Pot Harvests:

(a) Spot shrimp harvest is permitted as indicated in the following table starting one hour before official sunset until further notice.

<b>Geographical Management Unit (WAC 220-320-140)</b>	<b>Status</b>	<b>Effective Date</b>
Subregion 1A	Open	immediately
Subregion 1B	Closed	
Subregion 1C	Open	immediately
Region 2E	Closed	
Region 2W	Closed	
Subarea 23A-E	Open	immediately
Subarea 23A-W	Open	immediately
Subarea 23A-C and MSFS Catch Area 23B	Open	immediately
Subarea 23A-S and MSFS Catch Area 23D	Open	immediately
MFSF Catch Area 23C	Open	immediately
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Open	immediately
Discovery Bay Shrimp District	Closed	
MFSF 29 (Straits - Neah Bay)	Open	immediately
Subarea 26B-1 and MFSF Catch Area 26C	Closed	
Subarea 26B-2	Open	immediately
Region 5	Closed	
MFSF Catch Area 26D	Closed	
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed	

(b) The first spot shrimp catch accounting period starts one hour before official sunrise on May 1, 2022, through one hour after official sunset on August 2, 2022.

(c) It is unlawful for the total harvest during the first spot shrimp accounting period to exceed 4,500 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) It is unlawful to harvest spot shrimp from more than one Geographical Management Unit listed in 2(a) in a single day with the following exceptions:

(i) Spot shrimp may be harvested from subregion 1A and subregion 1C on the same day.

(ii) Spot shrimp may be harvested from subarea 23A-E, and either 23A-W, 23A-C or MFSF Catch Area 23B on the same day.

(3) Non-spot shrimp pot harvests:

(a) Non-spot shrimp pot harvest is permitted as indicated in the following table starting one hour before official sunset until further notice.

<b>Geographical Management Unit (WAC 220-320-140)</b>	<b>Status</b>	<b>Effective Date</b>
Subregion 1A	Open	immediately
Subregion 1B	Open	immediately
Subregion 1C	Closed	6/7/2022
Region 2E	Open	immediately
Region 2W	Open	immediately
Region 3, not including Discovery Bay Shrimp District	Open	immediately
Discovery Bay Shrimp District	Open	immediately
Region 4	Closed	
Region 5	Closed	
Region 6	Closed	

(b) The non-spot shrimp catch accounting period is weekly from one hour before official sunrise each Wednesday through one hour after official sunset on the subsequent Tuesday, totaling 7 days in length.

(c) It is unlawful for the combined total harvest of non-spot shrimp per license to exceed 700 pounds per non-spot shrimp catch accounting week from subregions 1A, 1B, 1C, and Region 2E combined.

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

(e) Harvest of non-spot shrimp is not permitted deeper than 175 feet in subarea 23A East or subregion 1A.

(f) It is unlawful to harvest non-spot shrimp in more than one Geographical Management unit listed in 3(a) in a single day with the following exceptions:

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

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

[]

REPEALER

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

WAC 220-340-52000T Commercial shrimp pot fishery—Puget Sound. (22-81)

**WSR 22-13-018**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-94—Filed June 3, 2022, 10:20 a.m., effective June 4, 2022]

Effective Date of Rule: June 4, 2022.

Purpose: The purpose of this emergency rule is to modify salmon and steelhead rules in the Lower Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000S; and amending WAC 220-312-060.

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

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

Reasons for this Finding: This action extends the open area for boat angling downstream of Bonneville Dam, reopens angling from Bonneville Dam upstream to the Washington/Oregon border, increases spring season adult salmon daily bag limit, includes previously adopted summer fishery regulations developed through the 2022 North of Falcon season setting process, and is consistent with comanager agreements. Endangered Species Act (ESA) and wild fish impacts are available to recreational fisheries in order to access salmon and steelhead. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of May 11, May 18, and June 2, 2022. The general public welfare is protected with the immediate and limited duration opening of recreational salmon fishing. This limited harvest allows for public use of the resource, as well as the maintenance of a sustainable fish population.

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

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

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission

guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: June 3, 2022.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-06000U Freshwater exceptions to statewide rules—Columbia River.** Effective June 4 through July 31, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Megler-Astoria Bridge to Priest Rapids Dam, shall be modified as described below. All other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

**(1) From the Megler-Astoria Bridge upstream to a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank (the Rocky Point/Tongue Point line):** Salmon and steelhead:

(a) Effective June 16 through June 22, 2022: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steelhead. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

(b) Effective June 23 through July 31, 2022: Daily limit 6, no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook and hatchery steelhead.

**(2) From a projected line from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon bank (Rocky Point/Tongue Point line) upstream to Bonneville Dam:** Salmon and steelhead:

(a) Effective June 4 through June 15, 2022: Daily limit 6, no more than 2 adults may be retained. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

(b) Effective June 16 through June 22, 2022: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steel-

head. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

(c) Effective June 23 through July 31, 2022: Daily limit 6, no more than 1 steelhead may be retained. Release all salmon and steelhead other than hatchery jack Chinook and hatchery steelhead.

**(3) From Bonneville Dam upstream to The Dalles Dam:** Salmon and steelhead:

(a) Effective June 4 through June 15, 2022: Daily limit 6, no more than 2 adults may be retained. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

(b) Effective June 16 through July 31, 2022: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steelhead. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

**(4) From The Dalles Dam upstream to a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approximately 200' above the fish ladder exit:** Salmon and steelhead:

Effective June 16, 2022, until further notice: Closed to fishing for and retention of salmon and steelhead.

**(5) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington south shore located approximately 200' above the fish ladder exit upstream to Hwy. 730 at the Washington/Oregon border:** Salmon and steelhead:

(a) Effective June 4 through June 15, 2022: Daily limit 6, no more than 2 adults may be retained. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

(b) Effective June 16 through July 31, 2022: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steelhead. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

**(6) From Hwy. 730 at the Washington/Oregon border upstream to Hwy. 395 Bridge at Pasco:** Salmon and steelhead:

Effective June 16 through July 31, 2022: Daily limit 6, no more than 2 adults may be retained of which up to 1 may be a steelhead. Release all salmon and steelhead other than hatchery Chinook and hatchery steelhead.

**(7) From Columbia Point (approximately 1/4 mile downstream of I-182 Bridge) upstream to I-182 Bridge:** Salmon:

(a) Effective June 16 through July 15, 2022: Closed to angling from a floating device or by any method except hand-cast lines from the west shore (Richland side of the river).

(b) Effective June 16 through July 15, 2022: Daily limit 6, no more than 2 adult salmon may be retained. Release all salmon and steelhead other than hatchery Chinook and sockeye.

**(8) From I-182 Bridge upstream to Priest Rapids Dam:** Salmon:

Effective June 16 through July 31, 2022: Daily limit 6, no more than 2 adult salmon may be retained. Release all salmon and steelhead other than hatchery Chinook and sockeye.

[ ]



REPEALER

The following section of Washington Administrative Code is repealed, effective June 4, 2022:

WAC 220-312-06000S Freshwater exceptions to statewide rules—Columbia. (22-84)

WSR 22-13-021  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 22-91—Filed June 3, 2022, 11:26 a.m., effective June 3, 2022, 11:26 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

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

Reasons for this Finding: This rule opens the treaty commercial platform and hook and line fisheries upstream and downstream of Bonneville Dam, the Yakama Nation Zone 6 tributary fishery, and the treaty commercial gillnet fishery in Zone 6. This rule is consistent with actions of the Columbia River Compact on June 2, 2022. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

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

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

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

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

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

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

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

Date Adopted: June 3, 2022.

Kelly Susewind  
Director

#### NEW SECTION

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

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

(a) Season: 6 AM Saturday, June 4 to 11:59 PM July 31, 2022.

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

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

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

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

(a) Season: 6 AM Thursday, June 16 to 11:59 PM July 31, 2022. Only during days and times opened under tribal rule.

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

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

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

(a) Season: 6 AM Saturday June 4 until further notice, and only during those days and hours when the areas are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

(c) Allowable sales: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence. Sales of fish are allowed after the open period concludes, as long as the fish were landed during the open period.

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

(a) Season:

(i) 6 AM Thursday, June 16 to 6 PM Saturday, June 18, 2022

(ii) 6 AM Monday, June 20 to 6 PM Friday, June 24, 2022

(iii) 6 AM Monday, June 27 to 6 PM Friday, July 1, 2022

(b) Gear: Set and Drift Gill nets with a 7" minimum mesh size restriction.

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

(d) Standard river mouth and dam closed areas applicable to gill-net gear, except the Spring Creek Hatchery sanctuary is not in effect during the summer management period.

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

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

[ ]

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

#### REPEALER

The following section of Washington Administrative Code is repealed:

WAC 220-359-02000B Columbia River salmon seasons above  
Bonneville Dam. (22-41)

**WSR 22-13-023**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-93—Filed June 3, 2022, 11:42 a.m., effective June 3, 2022, 11:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Two days added to the recreational sturgeon retention season in the Columbia River estuary downstream of Wauna powerlines.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000P; and amending WAC 220-312-060.

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

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

Reasons for this Finding: This rule is needed to allow a limited harvest of white sturgeon in the Columbia River estuary. This population is managed under sustainable harvest guidelines and the legal-size population is large enough to allow for a limited retention fishery within the lower Columbia River. Sufficient room remains on the guideline to allow for additional harvest opportunity. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearings on March 30 and June 2, 2022. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 3, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000T Freshwater exceptions to statewide rules—Columbia River.** Effective immediately through June 11, 2022, the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 regarding white sturgeon retention seasons for the Columbia River, from a true north-south line through Buoy 10 (the mouth) upstream to the Wauna powerline crossing, including Youngs Bay and all adjacent Washington tributaries, shall be modified as follows. All other provisions of

WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

**From a true north-south line through Buoy 10 upstream to the Wau-na powerline crossing, including Youngs Bay, and all adjacent Wash-  
ton tributaries:**

(a) It is permissible to retain white sturgeon on the following dates: June 4, 8, 11 2022.

(b) On days open to white sturgeon retention the daily limit of white sturgeon is one fish between 44-inches minimum and 50-inches maximum fork length.

(c) Closed to angling for sturgeon at 2:00 pm daily on dates open to sturgeon retention.

(d) Catch and release angling is permissible on days not open to sturgeon retention.

[]

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-06000P Freshwater exceptions to statewide rules—Columbia River. (22-50)

**WSR 22-13-025**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-95—Filed June 3, 2022, 12:19 p.m., effective June 3, 2022, 12:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open additional all-depth recreational halibut retention days in Marine Areas 1, 2, 3, and 4. This rule also maintains previous recreational halibut seasons set in WSR 22-07-075 (Order 22-45), filed March 18, 2022.

Citation of Rules Affected by this Order: Repealing WAC 220-314-03000I; and amending WAC 220-314-030.

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

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

Reasons for this Finding: Severe inclement weather on previously scheduled halibut days precluded or significantly reduced fishing effort. Substantial quota remains and adding dates in June supports progress towards attaining the Washington sport quota. The National Marine Fisheries Service adopted regulations for Pacific halibut fisheries in 2022, including the additional season dates described here. This emergency rule revises state regulations so that they conform to federal regulations. 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: June 3, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-314-03000J Halibut—Seasons—Daily and possession limits.**

Notwithstanding the provisions of WAC 220-314-040, and 220-314-010, effective immediately, through June 30, 2022, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section. All other provisions of WAC 220-314-040, and



220-314-010, including Yelloweye Rockfish Conservation Areas (YRCA), not addressed herein, remain in effect unless otherwise amended by emergency rule:

(1) **Catch Record Card Area 1 All Depth Fishery, including Southern Near Shore Fishery area:**

Open June 2, 5, 9, 12, 13, 16, 19, 20, 23, 26, and 30, 2022.

(2) **Catch Record Card Area 1 Southern Near Shore Fishery;** Those waters shoreward from 46°38.17' N. lat., 124°15.88' W. long., to the WA/OR border at 46°16.00' N. lat., 24°15.88' W. long. (then connecting to the 40 fathom depth contour in Oregon):

Open June 6, 7, 8, 13, 14, 15, 20, 21, 22, 27, 28, and 29, 2022.

(3) **Catch Record Card Area 2 All Depth Fishery, including Northern Near Shore Fishery area:**

Open June 16, 19, 23, 26, 28, and 30, 2022.

(4) **Card Record Areas 3 and 4:**

Open June 2, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, and 30.

(5) **Catch Record Card Area 5:**

June 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, and 30.

(6) **Catch Record Card Area 6 through 10:**

Open June 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, and 30, 2022.

(7) **Catch Record Card Areas 11, 12 and 13:** Closed.

[]

REPEALER

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

WAC 220-314-03000I Halibut—Seasons—Daily and possession limits. (22-45)

WSR 22-13-027  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 22-97—Filed June 3, 2022, 3:49 p.m., effective June 4, 2022]

Effective Date of Rule: June 4, 2022.

Purpose: The purpose of this emergency rule is to close recreational salmon fisheries in Catch Record Card Area 11.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000V.

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: Salmon fishing in Catch Record Card Area 11 is being suspended for the rest of June because unmarked encounter limit has been reached and the harvest quota is also expected to be achieved by the end of the day Friday. The current estimate of Chinook harvest through June 2 is 450 of the total harvest quota of 580 (78 percent) and 512 of the total unmarked encounter limit of 432 (118 percent) set during the 2022 North of Falcon season setting process.

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

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

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

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

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

Date Adopted: June 3, 2022.

Kelly Susewind  
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective June 4, 2022:

WAC 220-313-06000V Puget Sound salmon—Saltwater seasons and daily limits. (22-82)

**WSR 22-13-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-96—Filed June 6, 2022, 3:06 p.m., effective June 10, 2022]

Effective Date of Rule: June 10, 2022.

Purpose: The purpose of this emergency rule is to open a spring Chinook season in the Snake River.

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

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

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

Reasons for this Finding: An updated run size increase to the 2022 Columbia upriver spring Chinook salmon return is sufficiently abundant to allow for a limited harvest opportunity on the Snake River based on Washington department of fish and wildlife Commission Policy C-3620. The *U.S. v. Oregon* (2018-2027) Management Agreement provides Endangered Species Act coverage for this fishery.

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: June 6, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000N Freshwater exceptions to statewide rules—Eastside.** Effective June 10, 2022, the following provisions of WAC 220-312-050, regarding salmon seasons in the Snake River shall be open as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

**Snake River (Franklin/Walla Wall Counties): From Texas Rapids boat launch (south side of the river upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam and including the rock and concrete area between the juvenile bypass re-**

**turn pipe and little Goose Dam along the shoreline of the facility:**

Salmon:

- (a) Open the day of June 10, 2022 only.
- (b) Daily limit 4, of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.
- (c) Night Closure.
- (d) Barbless hooks required.
- (e) Salmon may not be removed from the water unless retained as part of the daily limit.

[]

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

**WSR 22-13-043**  
**EMERGENCY RULES**  
**BELLEVUE COLLEGE**

[Filed June 7, 2022, 1:42 p.m., effective June 7, 2022, 1:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 132H-126 WAC, BC Policy 2050, Student conduct code revision.

Citation of Rules Affected by this Order: Amending WAC 132H-126-100, 132H-126-400, 132H-126-410, and 132H-126-460.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 38B.20.140(13).

Other Authority: P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

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: Bellevue College is planning to revise its student conduct code to comply with new state regulations. On March 30, 2022, Governor Inslee signed Sam's Law (HB 1751) into law. This bill requires the college to update the definition of hazing. Additionally, edits are needed to comply with an August 10, 2021, decision from a federal district that vacates portions of the 2020 amendments to the Title IX regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, 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 3, Repealed 0.

Date Adopted: June 1, 2022.

Loreen M. Keller  
Associate Director of Policies  
and Special Projects

**OTS-3879.1**

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-100 Prohibited student conduct.** The college may impose disciplinary sanctions against a student who commits or attempts to commit, or aids, abets, incites, encourages, or assists another person to commit the following acts of misconduct:

(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is

reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) **Abuse in later life.**

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) **Abuse of the student conduct process.**

(a) Abuse of the student conduct process includes:

(i) Attempting to influence the impartiality or participation of any decision maker including a student conduct officer, conduct review officer, or presiding student conduct committee member;

(ii) Influencing or attempting to influence another person to commit an abuse of the student conduct process;

(iii) Harassment or intimidation of any participant in the student conduct process; or

(iv) Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in the conduct process.

(b) This provision does not apply to reports made or information provided in good faith, even if the respondent is ultimately found not responsible in that conduct proceeding.

~~((3))~~ (4) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication. The decision to bring a student conduct proceeding under this code for academic dishonesty is at the sole discretion of the student conduct officer. Nothing in this code prohibits instructors and/or academic divisions or departments from imposing academic consequences, up to and including a failing grade in an academic course or dismissal from an academic program, in response to academic dishonesty. Policies and procedures governing the imposition of academic consequences for academic dishonesty can be found in the course syllabus and any applicable program handbook.

(a) **Cheating.** Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) **Plagiarism.** Taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. May also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Falsifying data, information, or citations in completing an academic assignment. Fabrication also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) **Multiple submissions.** Submitting the same work in separate courses without the express permission of the instructor(s).

(e) **Deliberate damage.** Taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

~~((4))~~ (5) **Acts of dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

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

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

~~((5))~~ (6) **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies, and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

~~((6))~~ (7) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, text messaging, social media sites, or applications (apps), to harass, abuse, bully, or engage in other conduct that 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 electronic communications or computer activities directly or through spyware, sending threatening emails or texts, disrupting electronic communications with spam or by sending a computer virus, or sending false emails or texts to third parties using another's identity (spoofing).

~~((7))~~ (8) **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.

~~((8))~~ (9) **Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; honorably discharged veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

~~((9))~~ (10) **Disorderly conduct.** Conduct that is disorderly, lewd, or indecent; disturbing the peace; or assisting or encouraging another person to disturb the peace.

~~((10))~~ **(11) Disruption or obstruction.** Disruption or obstruction of any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity, or any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

~~((11))~~ **(12) 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.~~

~~(12))~~ Use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person:

(a) Who is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington;

(b) Who is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(c) Who shares a child in common with the victim; or

(d) Who commits acts 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.

**(13) Economic abuse.** In the context of domestic violence, dating violence, economic abuse includes behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

(a) Restrict a person's access to money, assets, credit, or financial information;

(b) Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or

(c) Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

**(14) 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.

~~((13))~~ **(15) Failure to comply with directive.** Failure to comply with the reasonable direction of a college official or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

~~((14))~~ **(16) Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or



pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media and electronic communications unless otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, or duration of the comments or actions.

~~((15))~~ **(17) Hazing.** 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))~~ 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 is prohibited both on and off campus.

**(18) 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.

~~((17))~~ **(19) Marijuana or other drugs.**

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

(b) **Drugs.** The use, possession, production, delivery, sale, or being under the influence of any prescription drug or possession of drug paraphernalia, 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))~~ **(20) Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized 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 computer time or resources to interfere with someone else's work;
  - (e) Use of computer time or resources to send, display, or print an obscene or abusive message, text, or image;
  - (f) Use of computer time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
  - (g) Use of computer time or resources in violation of applicable copyright or other law;
  - (h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or
  - (i) Failure to comply with the college's electronic use policy.
- ((19)) **(21) Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism of, or other nonaccidental damaging or destruction of college property or the property of another person. Property, for purposes of this subsection, also includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.
- ((20)) **(22) Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported a violation of this code or college policy, provided information about a reported violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.
- ((21)) **(23) Safety violations.** Safety violations include committing any reckless or unsafe act that endangers others, failing to follow established safety procedures (e.g., failing to evacuate during a fire alarm), or interfering with or otherwise compromising any college equipment relating to the safety and security of the campus community including, but not limited to, tampering with fire safety or first-aid equipment, or triggering false alarms or other emergency response systems.
- ((22)) **(24) Sexual exploitation.** Taking nonconsensual or abusive sexual advantage of another for the respondent's own advantage or benefit, or to benefit or advantage anyone other than the one being 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:
- (a) Invading another person's sexual privacy;
  - (b) Prostituting another person;
  - (c) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;
  - (d) 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;
  - (e) 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;

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

(g) Causing the nonconsensual indecent exposure of another person, as defined by subsection ~~((13))~~ (18) of this section.

~~((23))~~ (25) **Sexual harassment.** Unwelcome sexual- or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual- or gender-based nature that is sufficiently severe, persistent or pervasive as to:

(a) Deny or limit the ability of a student to participate in or benefit from the college's educational program;

(b) Alter the terms or conditions of employment; or

(c) Create an intimidating, hostile, or offensive environment for other campus community members.

For sexual harassment prohibited under Title IX, refer to WAC 132H-126-410.

~~((24))~~ (26) **Sexual violence.** A type of sexual harassment that includes nonconsensual intercourse, nonconsensual sexual contact, and sexual coercion.

(a) Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity.

(i) Effective consent cannot result from force, or threat of physical force, coercion, dishonesty, or intimidation.

(ii) Physical force means someone is physically exerting control of another person through violence. Physical force includes, but is not limited to, hitting, kicking, and restraining.

(iii) Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which they otherwise would not have consented.

(iv) 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.

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

(b) **Nonconsensual sexual intercourse.** 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.

(c) **Nonconsensual sexual contact.** Any intentional sexual touching, however slight, with any 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.

(d) **Sexual coercion.** Unreasonably pressuring another for sexual contact. When a complainant makes it clear through words or actions

that they do not want to engage in sexual contact, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond that point is presumptively unreasonable and coercive. Other examples of coercion may include using blackmail or extortion, or administering drugs and/or alcohol to overcome resistance or gain consent to sexual activity. Sexual contact that is the result of coercion is nonconsensual.

(e) **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 ~~((eighteen))~~ 18.

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

~~((25))~~ **(27) 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. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

~~((26))~~ **(28) Technological abuse.** An act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology including, but not limited to: Internet-enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

**(29) Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased, or operated by the college or in any location where such use is prohibited, including ~~((twenty-five))~~ 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. Related products include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

~~((27))~~ **(30) Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property. Providing keys to an unauthorized person or providing access to an unauthorized person is also prohibited.

~~((28))~~ **(31) Unauthorized recording.** The following conduct is prohibited:

(a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy (e.g., restroom or residence hall room).

(b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.

~~((29))~~ **(32) Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including on-campus housing policies and college traffic and parking rules.

~~((30))~~ **(33) Weapons.**

(a) Possessing, holding, wearing, transporting, storing, or exhibiting 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:

(i) Commissioned law enforcement personnel; or

(ii) Legally authorized military personnel while in performance of their official duties.

(b) Students with legally issued concealed weapons permits may store their weapons in vehicles parked in accordance with RCW 9.41.050 on campus provided the vehicle is locked and the weapon is concealed from view.

(c) The president or delegate 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 any terms or conditions incorporated therein.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-01-008, § 132H-126-100, filed 12/2/20, effective 1/2/21; WSR 19-01-082, § 132H-126-100, filed 12/17/18, effective 1/17/19.]

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-400 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 college's standard disciplinary procedures, WAC 132H-126-100 through 132H-126-340, these supplemental procedures shall take precedence. Bellevue College 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.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-01-008, § 132H-126-400, filed 12/2/20, effective 1/2/21.]

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-410 Prohibited conduct under Title IX.** Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids,

abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

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

(1) **Quid pro quo harassment.** A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) **Hostile environment.** Unwelcome 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 college's 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 ((eighteen)) 18.

(d) **Statutory rape.** Consensual sexual intercourse between someone who is ((eighteen)) 18 years of age or older and someone who is under the age of ((sixteen)) 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))~~ Use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person:

(a) Who is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington;

(b) Who is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(c) Who 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)) with the victim; or

(d) Who commits acts 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) **Economic abuse.** In the context of domestic violence, dating violence, economic abuse includes behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

(a) Restrict a person's access to money, assets, credit, or financial information;

(b) Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or

(c) Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

(7) **Technological abuse.** An act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology including, but not limited to: Internet-enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

(8) **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.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-01-008, § 132H-126-410, filed 12/2/20, effective 1/2/21.]

**AMENDATORY SECTION** (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-460 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 reported 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) ((Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.~~

~~(5))~~ 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.

~~((6))~~ (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.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-01-008, § 132H-126-460, filed 12/2/20, effective 1/2/21.]



WSR 22-13-057  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 22-99—Filed June 8, 2022, 1:37 p.m., effective June 8, 2022, 1:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule to extend the Nooksack River, North Fork spring Chinook fishery through June 30, 2022.

This rule also maintains salmon seasons for the Skagit River and Cascade River that were originally set in WSR 22-12-021 on May 28, 2022, and WSR 22-13-004 on June 1, 2022, respectively.

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

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

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

Reasons for this Finding: This fishery was originally scheduled to close after June 12, 2022. River conditions have been poor for sport fishing a majority of the time since the fishery opened and current catch is well within guidelines, making the extension possible.

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: June 8, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000D Freshwater exceptions to statewide rules—Puget Sound.** Effective immediately, through July 15, 2022, the following provisions of WAC 220-312-040 regarding salmon seasons for the Cascade River, Nooksack River, North Fork, and Skagit River, shall be modified during the dates and in locations listed and described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River** (Skagit Co.): From mouth to Rockport-Cascade Rd. Bridge: Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

(2) **Nooksack River, North Fork** (Whatcom Co.): From the Hwy. 9 Bridge to the yellow marker at the upstream side of the Kendall Hatchery: Salmon: Effective immediately, through June 30, 2022:

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

(b) Night closure and Anti-snagging rule in effect.

(3) **Skagit River** (Skagit Co.):

From Hwy. 530 Bridge at Rockport to Cascade River Rd. (Marblemount Bridge): Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

[]

#### REPEALER

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

WAC 220-312-04000C Freshwater exceptions to statewide rules—Puget Sound. (22-90)

**WSR 22-13-060**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-101—Filed June 8, 2022, 3:08 p.m., effective June 11, 2022]

Effective Date of Rule: June 11, 2022.

Purpose: The purpose of this emergency rule is to extend commercial razor clam seasons in Razor Clam Area 2 through July 5, 2022.

Citation of Rules Affected by this Order: Repealing WAC 220-340-12000I; and amending WAC 220-340-120.

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

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

Reasons for this Finding: Based on historical catches and on-site inspection, there are adequate clams to support a four-week extension of the commercial razor clam season. Washington department of health has confirmed biotoxin levels currently fall below the regulatory threshold. This emergency rule is needed to extend the commercial razor clam season in Razor Clam Area 2. Department of natural resources will not require a return on equity agreement, so boat-in access language is necessary to prevent harvesters from accessing the spits by land. 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: June 8, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-12000I Commercial razor clams.** Notwithstanding the provisions of WAC 220-340-120, effective June 11 through July 5, 2022, a person may dig for and possess razor clams for commercial purposes only in those waters and detached beaches of Razor Clam Area 2 lying south of the Willapa Bay Ship Channel, west of Ellen Sands, and north of the tip of Leadbetter Point. Digging is prohibited on the west side

of Leadbetter Point south of 46°39.765' N. Access to Razor Clam Area 2 is by boat only.

[]

REPEALER

The following section of the Washington Administrative Code is repealed effective July 6, 2022:

WAC 220-340-12000I Commercial razor clams.

**WSR 22-13-061**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-98—Filed June 8, 2022, 3:23 p.m., effective June 9, 2022]

Effective Date of Rule: June 9, 2022.

Purpose: Returns Kalama and Wind rivers to permanent rules.

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

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

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

Reasons for this Finding: This emergency rule is needed to return the Kalama and Wind rivers to permanent rules. The adult salmon daily limit on the Kalama River was reduced earlier in the year to help ensure the spring Chinook broodstock collection goal was achieved. Adult broodstock collection is on track and expected to be met; therefore, a reduced daily limit is no longer necessary.

The adult salmon daily limit on the Wind River was reduced earlier in the year to help ensure the spring Chinook broodstock collection goal for Carson National Fish Hatchery (CNFH) was achieved. Returns of adult spring Chinook to CNFH have been good and the broodstock collection goal is expected to be met; therefore, a reduced daily limit is no longer necessary. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 8, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-03000M Freshwater exceptions to statewide rules—Southwest.** Effective June 9, 2022, until further notice, the provisions of WAC 220-312-030 regarding Cowlitz River and Klickitat rivers, salmon seasons shall be modified during times and as described below.

All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

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

Effective immediately through July 31, 2022: Salmon: Daily limit 6, of which up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.

**(2) Klickitat River (Klickitat Co.):**

(a) From the mouth to Fisher Hill Bridge: Effective immediately, until further notice: Salmon: Daily limit 6; up to 1 adult may be retained. Release wild Chinook.

(b) From 400 feet upstream from #5 fishway to boundary markers below Klickitat Salmon hatchery: Effective immediately, until further notice: Salmon: Daily limit 6; up to 1 adult may be retained. Release wild Chinook.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed, effective June 9, 2022:

WAC 220-312-03000J Freshwater exceptions to statewide rules—Southwest. (22-67)

WAC 220-312-03000L Freshwater exceptions to statewide rules—Southwest. (22-86)

**WSR 22-13-070**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**CHILDREN, YOUTH, AND FAMILIES**

[Filed June 9, 2022, 1:05 p.m., effective June 9, 2022, 1:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend chapter 110-06 WAC to allow individuals to work supervised in the department of children, youth, and families' (DCYF) licensed early learning programs after submitting to the department their background check applications; allow license-exempt family, friend, and neighbor providers to be authorized for unsupervised access to children following name-based background checks while fingerprint-based background checks are pending; include an interstate background check for individuals who have lived outside of Washington state in the five years immediately preceding their application; and remove certain crimes that disqualify a subject individual from authorization.

Citation of Rules Affected by this Order: Amending WAC 110-06-0040, 110-06-0046, and 110-06-120.

Statutory Authority for Adoption: RCW 43.216.065.

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: Proclamation of the Governor 20-05 declared a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. Proclamation of the Governor 20-31 amends Proclamation 20-05 and waives and suspends fingerprint-based background checks before a person may be approved to have unsupervised access to children during the COVID-19 pandemic due to the potential risk of exposure to COVID-19 resulting from face-to-face contact in submitting fingerprints, limited access to fingerprinting as entities that receive and process fingerprints limit or suspend operations in order to limit exposure to COVID-19, and the unavailability of law enforcement agencies to process fingerprints during the pandemic. The ability to issue background check clearance authorizations before completing fingerprint-based background checks better enables DCYF to ensure the availability of stable and quality child care during the COVID-19 pandemic. The amendment to WAC 110-06-120 removes crimes that account for 33 percent of family, friends, and neighbors being disqualified from participation in working connections child care. The amendment is in accord with the federal disqualifying crimes list, significantly increases the number of individuals who may provide care, and will not pose a safety risk for children in care.

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

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

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

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

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

Date Adopted: June 9, 2022.

Brenda Villarreal  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [22-14](#) issue of the Register.



**WSR 22-13-071**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**CHILDREN, YOUTH, AND FAMILIES**

[Filed June 9, 2022, 1:07 p.m., effective June 9, 2022, 1:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of children, youth, and families (DCYF) will be repealing chapter 110-720 WAC and amending WAC 110-03-0020 and 110-03-0490 as a result of SHB 2050 which repeals parent pay in Washington state. Parent pay requires families to pay a percentage of their income to support their child's incarceration. Parent pay is a barrier to young people's successful transition out of the juvenile system and toward a second chance. The practice has inequitable racial outcomes, creates debt for families already struggling financially, and is an inefficient source of revenue for the state.

Citation of Rules Affected by this Order: Repealing WAC 110-720-0010, 110-720-0020, 110-720-0030, 110-720-0040 and 110-720-0050; and amending WAC 110-03-0020 and 110-03-0490.

Statutory Authority for Adoption: RCW 13.40.220.

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: SHB 2050 requires the repeal of RCW 13.40.220, which means DCYF must repeal chapter 110-720 WAC. Per the bill, the repeal of the rules must take effect June 9, 2022.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 5.

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: June 9, 2022.

Brenda Villarreal  
Rules Coordinator

**OTS-3840.1**

AMENDATORY SECTION (Amending WSR 20-02-031, filed 12/19/19, effective 1/19/20)

**WAC 110-03-0020 Definitions.** The following definitions apply to this chapter:

"Adjudicative proceeding" means a proceeding in which an opportunity for a hearing occurs before an administrative law judge (ALJ) concerning an administrative appeal of a DCYF action. Hearings and

prehearing conferences are elements of adjudicative proceedings. An adjudicative proceeding may take place before the office of administrative hearings (OAH) and may also encompass review proceedings before a DCYF board of appeals (BOA) review judge.

"Administrative law judge" or "ALJ" means an impartial decision-maker who is an attorney and presides over an adjudicative proceeding resulting in an initial order, or resulting in a final order if no appeal of the initial order is properly made or if no further agency appeal is available.

"Adverse action" or "DCYF action" or "department action" means licensing, the enforcement of a statute, the application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

"Board of appeals" or "BOA" means the DCYF board of appeals, the entity to which an initial order of an ALJ may be appealed and considered by a review judge.

"Business days" means all days except for Saturdays, Sundays, federal legal holidays, and state legal holidays listed in RCW 1.16.050(1).

"Business hours" means 8:00 a.m. to 5:00 p.m. Monday through Friday, except state legal holidays.

"Calendar days" means all days including Saturdays, Sundays, federal legal holidays, and state legal holidays as listed in RCW 1.16.050(1).

"Case" means the entire adjudicative proceeding following the filing of a request for hearing with OAH.

"Continuance" means a change to a later date or time of a pre-hearing conference, hearing, or deadline for other action.

"DCYF" or "department" means the department of children, youth, and families.

"DCYF" or "department representative" means an employee of the department, an assistant attorney general, or special assistant attorney general authorized to represent DCYF in an administrative hearing.

"Documents" means papers, letters, writings, or other printed or written items.

"Ex parte contact" means a written or oral communication with an ALJ or review judge about something related to the hearing when all other parties are not present, as provided in RCW 34.05.455. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, or location or asking for directions to the hearing location.

"File" means delivering documents to OAH or the BOA at the location designated in this chapter or in a notice or order received from OAH or the BOA. The date of filing is the date documents are actually received during office hours by OAH or the BOA.

(a) Filing may be by:

(i) Personal service (hand delivery);

(ii) First class, registered, or certified mail;

(iii) Fax transmission, if the party also mails a copy of the document the same day;

(iv) Commercial delivery service; or

(v) Legal messenger service.

(b) A party cannot file documents by email, unless agreed in advance by OAH or BOA.

"Final order" means an order that is the final DCYF decision. An ALJ's initial order becomes a final order if the ALJ's initial order is not appealed to the BOA. If an ALJ's initial order is appealed to

the BOA, the review judge's order is DCYF's final order. However, in the case of administrative proceedings related to juvenile parole revocation (~~(, findings of financial responsibility for reimbursement for the cost of support, treatment, and confinement of a juvenile,))~~) or subsidy overpayments to child care providers, the ALJ's decision is the final administrative decision.

"Good cause" means a substantial reason or legal justification for an action or for failing to appear, act, or respond to an action required under these rules. An ALJ or review judge may use the provisions of superior court civil rule 60 as a guide to determine what may be considered good cause.

"Hearing" means a meeting held before OAH or a review judge that gives an aggrieved party an opportunity to be heard, for the purpose of deciding issues of fact or law, in a dispute resulting from an appealable action taken against the party by DCYF.

"Initial order" is a decision made by an ALJ that may be reviewed by a review judge at any party's request.

"Judicial review" means a superior court's review of a final order.

"Limited-English-proficient person" or "LEP" means a person with limited ability to read, write, or speak English well enough to understand and communicate effectively.

"OAH" means the office of administrative hearings. This is a separate agency and not part of DCYF.

"Party" means DCYF or a person or entity named in a department action, or to whom a department action is directed.

"Prehearing conference" means a meeting scheduled and conducted by an ALJ in preparation for a hearing.

"Program" means a DCYF organizational unit and the services that it provides, including services provided by DCYF staff and through contracts with providers. Organizational units include, but are not limited to, DCYF offices and divisions.

"Reconsideration" means reexamination of a final order on request of a party because the party believes a mistake was made.

"Record" means the official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Representative" means the person selected by a party to represent that party in an administrative hearing. A representative may be an attorney or a lay representative who is not an attorney.

"Review" means the act of reevaluating an initial order by examining the record and issuing the DCYF final order as provided by RCW 34.05.464.

"Review judge" or "BOA review judge" means an attorney designated by the DCYF board of appeals to act as the reviewing officer and who is authorized to review ALJ initial orders and to prepare and enter the final order.

"Rule" means a state agency regulation found in the Washington Administrative Code (WAC).

"Serve" or "service" means a procedure by which notice of legal action is given to a party.

(a) Unless otherwise stated in law or rule, a party may serve another party by one of the following methods:

(i) Personal service (hand delivery);

(ii) First class, registered, or certified mail;

(iii) Fax, if the party also mails a copy of the document the same day;

- (iv) Commercial delivery service;
  - (v) Legal messenger service; or
  - (vi) By any other method authorized by chapter 10-08 WAC.
  - (b) Service for each method, respectively, is complete when:
    - (i) Personal service is made;
    - (ii) Mail is properly stamped, addressed, and deposited in the United States mail;
    - (iii) Fax produces proof of transmission;
    - (iv) A parcel is delivered to a commercial delivery service with charges prepaid; or
    - (v) A parcel is delivered to a legal messenger service with charges prepaid.
  - (c) A party cannot serve documents by email, unless agreed in advance by the receiving party.
  - (d) Notice and orders served by mail by OAH or BOA are served on the date of mailing.
- "Stay" means an order temporarily halting the effective date of a DCYF action.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0020, filed 12/19/19, effective 1/19/20.]

AMENDATORY SECTION (Amending WSR 20-02-031, filed 12/19/19, effective 1/19/20)

- WAC 110-03-0490 Finality of the initial order.** (1) Except as provided in subsection (3) of this section, the ALJ issues an initial order that becomes a final order:
- (a) Twenty-one days after the date the initial order is mailed to the parties, when none of the parties has timely requested a review; or
  - (b) When a request for review is dismissed.
- (2) The review judge issues the final order when a party timely requests a review of an initial order.
- (3) The ALJ will issue a final order in administrative proceedings concerning juvenile parole revocation(~~(, findings of financial responsibility for reimbursement for the cost of support, treatment, and confinement of a juvenile,)~~) and subsidy overpayments to child care providers.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0490, filed 12/19/19, effective 1/19/20.]

## **OTS-3841.1**

### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 110-720-0010 Definitions.

WAC 110-720-0020 Cost reimbursement schedule and ability  
to pay.  
WAC 110-720-0030 Modifications.  
WAC 110-720-0040 Hearing.  
WAC 110-720-0050 Powers of the administrative law judge.

**WSR 22-13-073**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-102—Filed June 9, 2022, 3:19 p.m., effective June 16, 2022]

Effective Date of Rule: June 16, 2022.

Purpose: The purpose of this emergency rule is to open recreational sockeye seasons in a portion of the Skagit River.

This rule also maintains salmon seasons for the Skagit River, Cascade River, and Nooksack River, North Fork that were originally set in WSR 22-12-021 on May 28, 2022, WSR 22-13-004 on June 1, 2022, and WSR 22-13-057 on June 8, 2022, respectively.

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

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

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

Reasons for this Finding: Harvestable numbers of sockeye are forecast to return to the Baker system. Sockeye harvest in the river fishery will be limited to 20 percent of state share. The remaining 80 percent will be reserved for Baker Lake opportunity. The split was agreed to between anglers during public sockeye workshops held in 2014 and 2015. Current river sport share is over 1,600 fish, but exact number could change with in-season run-size updates.

Periodic closures to prevent conflicts with tribal fisheries are expected. In-season closures will be announced as soon as possible.

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: June 9, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-04000E Freshwater exceptions to statewide rules—Puget Sound.** Effective June 16 through July 15, 2022, the following

provisions of WAC 220-312-040 regarding salmon seasons for the Cascade River, Nooksack River, North Fork, and Skagit River, shall be modified during the dates and in locations listed and described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River** (Skagit Co.): From mouth to Rockport-Cascade Rd. Bridge: Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

(2) **Nooksack River, North Fork** (Whatcom Co.): From the Hwy. 9 Bridge to the yellow marker at the upstream side of the Kendall Hatchery: Salmon: Effective immediately, through June 30, 2022:

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

(b) Night closure and Anti-snagging rule in effect.

(3) **Skagit River** (Skagit Co.):

(a) From Hwy. 536 Bridge (Memorial Hwy. Bridge) in Mt. Vernon to the Dalles Bridge at Concrete: Salmon: Effective June 16 through July 15, 2022:

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

(ii) Night closure in effect.

(iii) Selective gear rules are not in effect when fishing for salmon.

(b) From Hwy. 530 Bridge at Rockport to Cascade River Rd. (Marblemount Bridge): Salmon: Effective immediately, through July 15, 2022:

(i) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(ii) Night closure and Anti-snagging rule in effect.

[]

#### REPEALER

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

WAC 220-312-04000D Freshwater exceptions to statewide rules—Puget Sound. (22-99)

**WSR 22-13-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-103—Filed June 9, 2022, 3:23 p.m., effective June 9, 2022, 3:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set new weekly landing limit and end date to coastal commercial May - June troll seasons.

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

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

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

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet. This regulation is necessary to both meet conservation limits and to provide fishing opportunity and its corresponding economic benefit. The North of Falcon troll fishery is approaching its quota for the May - June season, and a coastwide landing limit is needed to both extend the season length and to ensure the quota is not exceeded. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with pre-season fishing plans, and have been adopted for federal waters by the National Oceanic and Atmospheric Administration. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 9, 2022.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050 and WAC 220-354-010, effective immediately, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken



with troll gear into a Washington port except during the seasons and under conditions provided below:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00"W longitude and south of 48°23'00" N latitude open: June 9 through June 15, 2022.

(2) Grays Harbor Control Zone, defined by a line drawn from the Westport Lighthouse (46°53'18"N. lat., 124°07'01"W. long.); thence to Buoy #2 (46°52'42"N. lat., 124°12'42"W. long.); thence to Buoy #3 (46°55'00"N. lat., 124°14'48"W. long.); thence to the Grays Harbor north jetty (46°55'36"N. lat., 124°10'51"W. long.), open: June 9 through June 15, 2022.

(3) For Washington Catch Reporting Areas 1, 2, 3 and 4, landing and possession limits per vessel per landing week, defined as Thursday through Wednesday: From June 9 through June 15, 2022, 25 Chinook per vessel combined across all areas per landing week.

(4) The Cape Flattery and Columbia River Control Zones are closed. The Mandatory Yelloweye Rockfish Conservation Area is closed.

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

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

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

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

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

(b) For delivery to Washington ports south of Leadbetter Point, vessels must notify WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov prior to crossing the Leadbetter Point line with area fished, total Chinook, coho, and halibut catch aboard, and destination with approximate time of delivery.

(c) Vessels may not land fish east of the Megler-Astoria bridge.

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

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

(b) Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at

360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook, coho, and halibut catch aboard and destination.  
(c) Vessels may not land fish east of the Sekiu River.

[]

REPEALER

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

WAC 220-354-30000D Coastal salmon troll seasons—  
Commercial. (22-83)

**WSR 22-13-080**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed June 10, 2022, 1:04 p.m., effective June 10, 2022, 1:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule-making order is to add language to existing WAC 392-136A-030 that clearly articulates the changes made to the shared leave program eligibility for school district staff to include the permitted use of shared leave as a result of the 2019 novel coronavirus.

Citation of Rules Affected by this Order: Amending WAC 392-136A-030.

Statutory Authority for Adoption: RCW 28A.400.380.

Other Authority: RCW 41.04.665.

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: Due to the global pandemic caused by COVID-19, RCW and WAC related to shared leave were amended by the legislature and the office of financial management. This emergency rule change includes language regarding the permitted use of shared leave for this purpose which was not previously amended to current WAC 392-136A-030 and is necessary for the preservation of public health, safety, and general welfare.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: June 10, 2022.

Chris P. S. Reykdal  
State Superintendent  
of Public Instruction

**OTS-3887.1**

AMENDATORY SECTION (Amending WSR 19-12-013, filed 5/24/19, effective 6/24/19)

**WAC 392-136A-030 Eligibility.** In the event a district implements a shared leave program, an employee shall be eligible to receive shared leave if the district has determined the employee meets the following conditions:

- (1) The employee:
  - (a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;
  - (b) Has been called to service in the uniformed services;
  - (c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;
  - (d) Is a victim of domestic violence, sexual assault, or stalking;
  - (e) Is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;
  - (f) Is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointment or treatment;
  - (g) Needs the time for parental leave; or
  - (h) Is sick or temporarily disabled because of pregnancy disability.
- (2) The condition(s) listed in subsection (1) of this section has caused, or is likely to cause, the employee to go on leave without pay or terminate district employment.
- (3) The employee's absence and the use of shared leave are justified.
- (4) The employee has exhausted or will shortly exhaust leave in accordance with WAC 392-136A-040. If the employee qualifies under subsection (1)(g) or (h) of this section, the employee is not required to deplete all of his or her annual leave or sick leave in accordance with WAC 392-136A-040.
- (5) The employee has abided by district policies regarding:
  - (a) Sick leave use if the employee qualifies under subsection (1)(a), (d), (g), or (h) of this section; or
  - (b) Military leave use if the employee qualifies under subsection (1)(b) of this section.
- (6) If the illness or injury is work-related, the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.
- (7) The employee's job is one in which annual leave, sick leave, military leave, or personal holiday can be used and accrued.
- (8) In accordance with RCW 41.04.665 (1)(f), and until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an employee may receive shared leave as a result of the 2019 novel coronavirus (COVID-19). The use of shared leave may be permitted if the employee, or a relative,

or household member is isolated or quarantined as recommended, requested, or ordered by a public health official or health care provider as a result of suspected or confirmed infection with or exposure to the 2019 novel coronavirus (COVID-19).

A school district may permit use of shared leave under this subsection without considering the requirements of subsections (1) through (5) of this section.

[Statutory Authority: RCW 28A.400.380. WSR 19-12-013, § 392-136A-030, filed 5/24/19, effective 6/24/19.]

**WSR 22-13-090**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-104—Filed June 13, 2022, 3:36 p.m., effective July 3, 2022]

Effective Date of Rule: July 3, 2022.

Purpose: The purpose of this emergency rule is to set weekly landing and possession limits for coastal commercial crab fisheries.

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

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

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

Reasons for this Finding: The weekly landing limit and period is necessary to mitigate handling mortality from sorting soft-shelled crab and provide for an orderly fishery. 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: June 13, 2022.

Kelly Susewind  
Director

NEW SECTION

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

(1) Effective 12:01 A.M. July 3, 2022, until further notice, it is unlawful for any person licensed to fish under a Dungeness crab-coastal fishery license to possess or land crab in excess of 2,500 pounds taken during each of the following coastal crab accounting periods:

- July 3 - July 9, 2022
- July 10 - July 16, 2022
- July 17 - July 23, 2022
- July 24 - July 30, 2022
- July 31 - August 6, 2022

- August 7 - August 13, 2022
- August 14 - August 20, 2022
- August 21 - August 27, 2022
- August 28 - September 3, 2022
- September 4 - September 10, 2022
- September 11 - September 15, 2022

(2) Any crab taken prior to July 3, 2022, and not landed before 11:59 p.m. July 2, 2022, become part of the July 3 through July 9, 2022, accounting period catch.

(3) It is unlawful for any person taking crab under subsection (1) of this section to fish for crab during any accounting period while having on board any crab taken in a different accounting period.

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

[]

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 3, 2022:

WAC 220-340-42000H Commercial crab fishery—Unlawful acts.  
(22-57)

**WSR 22-13-096**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-80—Filed June 14, 2022, 11:47 a.m., effective June 14, 2022, 11:47 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to prevent the spread of disease (*Mycoplasma ovipneumoniae*) to bighorn sheep from domestic goats and sheep on department lands. A preproposal has been filed, WSR 21-18-031 and proposed permanent rule making is anticipated to be in place by summer of 2022.

Citation of Rules Affected by this Order: Amending WAC 220-500-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

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

Reasons for this Finding: There is an existing and imminent threat on department land where pack goats are in close vicinity to wild bighorn sheep. The current threat of disease transmission could have dire impacts on state bighorn sheep populations during the upcoming recreational and hunting seasons. The department of fish and wildlife has started permanent rule making to address this issue for the long term and will accept additional public input during the rule-making process.

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

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

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

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

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

Date Adopted: June 14, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-500-04000J Domestic goats and sheep on Washington department of fish and wildlife managed lands.** (1) It is unlawful for any person to bring or lead domestic goats or sheep onto the following department wildlife area units or other WDFW-managed lands posted as



closed to domestic goats or sheep, unless otherwise permitted by the director to do so:

- (a) Colockum Wildlife Area: Colockum Unit;
  - (b) Wenas Wildlife Area: Wenas Unit;
  - (c) Chelan Wildlife Area: Chelan Butte, Swakane, and Entiat Units;
  - (d) LT Murray Wildlife Area: Quilomene and Whiskey Dick Units;
  - (e) Oak Creek Wildlife Area: Oak Creek and Rock Creek Units;
  - (f) Scotch Creek Wildlife Area: Scotch Creek, Charles and Mary Eder, Similkameen-Chopaka, and Tunk Valley Units;
  - (g) Sinlahekin Wildlife Area: Sinlahekin, Driscoll Island, McLoughlin Falls, and Carter Mountain Units;
  - (h) Asotin Creek Wildlife Area: Asotin Creek, Weatherly, and George Creek Units;
  - (i) Chief Joseph Wildlife Area: Chief Joseph, 4-0 Ranch, and Shumaker Units;
  - (j) Wooten Wildlife Area: Wooten Unit.
- (2) Goats or sheep that have tested positive for *Mycoplasma ovipneumoniae* or that are displaying signs of pneumonia or other illness will not be permitted on any WDFW-managed lands. Goats or sheep showing signs of pneumonia or other illness while on department lands must be removed within forty-eight hours.
- (3) If a goat or sheep becomes lost, the owner must make every effort to locate and recover it. If the goat or sheep cannot be recovered, the owner shall contact the department by telephone as soon as possible.

[ ]

## WSR 22-13-101

## EMERGENCY RULES

## STATE BOARD OF HEALTH

[Filed June 15, 2022, 4:22 a.m., effective June 15, 2022, 4:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-272A-0110 Proprietary treatment products—Certification and registration. Under the current rule, manufacturers of proprietary treatment products used in on-site sewage systems must test their products with the National Science Foundation (NSF) and register their products with the department of health (department) based on the NSF test results before the product is allowed to be permitted or installed in Washington. This allows the department to ensure that products used in on-site sewage systems can provide the appropriate level of treatment needed to protect public health and the environment such as drinking water sources and shellfish sites. Proprietary treatment products are required to be installed and operated as they were tested and registered to ensure they continue to perform as needed.

The state board of health (board) has amended the existing rule to allow manufacturers to make a written request to the department to substitute components of a registered product's construction in cases of a demonstrated supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product. Supply chain disruptions have made it difficult for manufacturers and owners to comply with the current requirement. For example, some manufacturers have incorporated disinfecting ultraviolet (UV) light systems into their products to achieve higher treatment performance required for sensitive sites. These disinfecting UV light systems require routine maintenance that requires replacement supplies. Salcor Inc., the manufacturer of a disinfecting UV light system incorporated into several proprietary treatment products sold and currently used in Washington, has recently ceased operation. This has created a sudden shortage of Salcor supplies that are needed for operation and maintenance for on-site sewage systems currently in operation. Without these supplies, the on-site sewage systems that use Salcor products do not operate as registered and may not completely treat sewage. This may impact sensitive sites near these on-site sewage systems. This same supply shortage is also currently preventing home sales when maintenance of these devices is noted on home inspections for property transfers because replacement parts are unavailable. New construction is likewise impacted as many active or pending permits include on-site sewage systems using Salcor products. There are other manufacturers of disinfecting UV light systems that can be substituted into the proprietary treatment products that use Salcor products. This emergency rule will allow the department and local health jurisdictions to consider such projects.

In 2018, the board filed a CR-101 Preproposal statement of inquiry, WSR 18-06-082, to initiate permanent rule making and update the on-site sewage system rules. That rule making is still underway and is expected to conclude in 2023. The board has directed staff to consider this emergency rule amendment to WAC 246-272A-0110 to be incorporated into the permanent rule.

Citation of Rules Affected by this Order: Amending WAC 246-272A-0110.

Statutory Authority for Adoption: RCW 43.20.050(3).

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

Reasons for this Finding: The board finds that in order to protect the public's health, safety, and welfare, it is necessary to adopt an emergency rule to amend WAC 246-272A-0110 to allow the department to consider written requests from manufacturers of proprietary treatment products for substitutes to proprietary treatment product components that will allow systems to continue to function properly without negatively impacting performance or diminishing the effect of the treatment, operation, or maintenance during supply chain shortages.

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

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

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

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

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

Date Adopted: June 13, 2022.

Michelle A. Davis  
Executive Director

## OTS-3856.1

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

**WAC 246-272A-0110 Proprietary treatment products—Certification and registration.** (1) Manufacturers shall register their proprietary treatment products with the department before the local health officer may permit their use.

(2) To qualify for product registration, manufacturers desiring to sell or distribute proprietary treatment products in Washington state shall:

(a) Verify product performance through testing using the testing protocol established in Table I and register their product with the department using the process described in WAC 246-272-0120;

(b) Report test results of influent and effluent sampling obtained throughout the testing period (including normal and stress

loading phases) for evaluation of constituent reduction according to Table II;

(c) Demonstrate product performance according to Table III. All (~~thirty-day~~) 30-day averages and geometric means obtained throughout the test period must meet the identified threshold values to qualify for registration at that threshold level; and

(d) For registration at levels A, B, and C verify bacteriological reduction according to WAC 246-272A-0130.

(3) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility accredited by ANSI:

(a) ANSI/NSF Standard 40—Residential Wastewater Treatment Systems;

(b) NSF Standard 41: Non-Liquid Saturated Treatment Systems;

(c) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation; or

(d) Protocol for bacteriological reduction described in WAC 246-272A-0130.

(4) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility meeting the requirements established by the Testing Organization and Verification Organization, consistent with the test protocol and plan:

(a) EPA/NSF—Protocol for the Verification of Wastewater Treatment Technologies; or

(b) EPA Environmental Technology Verification Program protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction.

(5) Treatment levels used in these rules are not intended to be applied as field compliance standards. Their intended use is for establishing treatment product performance in a product testing setting under established protocols by qualified testing entities.

(6) Manufacturers may make written request to the department to substitute components of a registered product's construction in cases of supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product.

**TABLE I**

<b>Testing Requirements for Proprietary Treatment Products</b>	
<b>Treatment Component/ Sequence Category</b>	<b>Required Testing Protocol</b>
<b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	ANSI/NSF 40—Residential Wastewater Treatment Systems (protocols dated between July 1996 and the effective date of these rules)

Testing Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Required Testing Protocol
<p><b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.</p> <p>(Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)</p>	<p>EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies/ EPA Environmental Technology Verification (April 2001)</p>
<p><b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).</p>	<p>NSF/ANSI Standard 41: Non-Liquid Saturated Treatment Systems (September 1999)</p> <p>NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation (April 2000)</p>
<p><b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b></p>	<p>Protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction/EPA Environmental Technology Verification Program (November, 2000)</p>

TABLE II

Test Results Reporting Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Testing Results Reported
<p><b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.</p>	<p>Report test results of influent and effluent sampling obtained throughout the testing period for evaluation of constituent reduction for the parameters: CBOD<sub>5</sub>, and TSS:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Average</li> <li><input type="checkbox"/> Minimum</li> <li><input type="checkbox"/> Median</li> <li><input type="checkbox"/> 30-day Average (for each month)</li> <li><input type="checkbox"/> Standard Deviation</li> <li><input type="checkbox"/> Maximum</li> <li><input type="checkbox"/> Interquartile Range</li> </ul> <p>For bacteriological reduction performance, report fecal coliform test results of influent and effluent sampling by geometric mean from samples drawn within <del>((thirty-day))</del> 30-day or monthly calendar periods, obtained from a minimum of three samples per week throughout the testing period. See WAC 246-272A-0130. Test report must also include the individual results of all samples drawn throughout the test period.</p>
<p><b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.</p> <p>(Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)</p>	<p>Report all individual test results and full test average values of influent and effluent sampling obtained throughout the testing period for: CBOD<sub>5</sub>, TSS and O&amp;G. Establish the treatment capacity of the product tested in pounds per day for CBOD<sub>5</sub>.</p>

Test Results Reporting Requirements for Proprietary Treatment Products	
<b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).	Report test results on all required performance criteria according to the format prescribed in the NSF test protocol described in Table I.
<b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b>	Report test results on all required performance criteria according to the format prescribed in the test protocol described in Table I.

**TABLE III**

Product Performance Requirements for Proprietary Treatment Products						
Treatment Component/Sequence Category	Product Performance Requirements					
<b>Category 1</b> Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	<b>Treatment System Performance Testing Levels</b>					
	<b>Level</b>	<b>Parameters</b>				
		<b>CBOD<sub>5</sub></b>	<b>TSS</b>	<b>O&amp;G</b>	<b>FC</b>	<b>TN</b>
	<b>A</b>	10 mg/L	10 mg/L	—	200/100 ml	—
	<b>B</b>	15 mg/L	15 mg/L	—	1,000/100 ml	—
	<b>C</b>	25 mg/L	30 mg/L	—	50,000/100 ml	—
	<b>D</b>	25 mg/L	30 mg/L	—	—	—
	<b>E</b>	125 mg/L	80 mg/L	20 mg/L	—	—
	<b>N</b>	—	—	—	—	20 mg/L
Values for Levels A - D are 30-day values (averages for CBOD <sub>5</sub> , TSS, and geometric mean for FC.) All 30-day averages throughout the test period must meet these values in order to be registered at these levels. Values for Levels E and N are derived from full test averages.						
<b>Category 2</b> Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.  (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	All of the following requirements must be met:  (1) All full test averages must meet Level E; and (2) Establish the treatment capacity of the product tested in pounds per day for CBOD <sub>5</sub> .					
<b>Category 3</b> Black water component of residential sewage (such as composting and incinerating toilets).	Test results must meet the performance requirements established in the NSF test protocol.					
<b>Total Nitrogen Reduction in Categories 1 &amp; 2 (Above)</b>	Test results must establish product performance effluent quality meeting Level N, when presented as the full test average.					

[Statutory Authority: RCW 43.20.050. WSR 05-15-119, § 246-272A-0110, filed 7/18/05, effective 9/15/05.]

## WSR 22-13-105

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

[Filed June 15, 2022, 11:57 a.m., effective June 15, 2022, 11:57 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-980-030, 246-980-040, and 246-980-065 in chapter 246-980 WAC, Home care aides; and adopting new WAC 246-980-011. Due to impacts from the coronavirus disease 2019 (COVID-19) pandemic, many uncertified home care aides are unable to obtain training and certification within statutory time frames. Establishing alternate time frames under ESHB 1120 (chapter 203, Laws of 2021) will allow additional time for uncertified home care aides to complete certification requirements while training, testing, and certification capacity issues are being resolved.

These rules continue the initial emergency rules filed on February 15, 2022, under WSR 22-05-079, which established alternate training and certification time frames for individuals working toward certification as a home care aide. In collaboration with the department of social and health services (DSHS), the alternate training and certification time frames provided in the original emergency rule under WAC 246-980-011 have been updated to reflect Washington's current capacity to train and certify home care aides.

Amendments to WAC 246-980-030, 246-980-040, and 246-980-065 create cross-references to new WAC 246-980-011.

Citation of Rules Affected by this Order: New WAC 246-980-011; and amending WAC 246-980-030, 246-980-040, and 246-980-065.

Statutory Authority for Adoption: RCW 18.88B.021, ESHB 1120 (chapter 203, Laws of 2021).

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

Reasons for this Finding: This emergency rule is necessary to avoid a critical shortage of home care aides as a result of the COVID-19 pandemic.

During the COVID-19 pandemic, both training and testing were unavailable for several months in 2020 before resuming at limited capacity, creating a large backlog of uncertified home care aides. Thousands of uncertified home care aides have been working under emergency waivers. After the declared emergency and waivers end, however, uncertified aides will not be able to work and will still be unable to readily access the training and testing necessary for certification. Losing these workers would exacerbate the existing home care aide workforce shortage, forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings.

Establishing alternate time frames for home care aide certification, developed in collaboration with DSHS under ESHB 1120, will create a path to certification for uncertified home care aides and allow the backlog of workers waiting for testing, training, and certification to be processed.

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 3, Repealed 0.

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

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

Date Adopted: June 15, 2022.

Kristen Peterson, JD  
Deputy Secretary  
Policy and Planning  
for Umair A. Shah, MD, MPH  
Secretary

**OTS-3558.4**

NEW SECTION

**WAC 246-980-011 Long-term care workers working or hired during the COVID-19 public health emergency.** (1) Unless exempt from certification as described in WAC 246-980-025, a long-term care worker affected by the coronavirus disease 2019 (COVID-19) public health emergency who is required to be certified as a home care aide must obtain certification as follows:

Hired or rehired during the time frame of:	Shall be certified as a home care aide no later than:
August 17, 2019, to September 30, 2020	January 19, 2023
October 1, 2020, to April 30, 2021	April 21, 2023
May 1, 2021, to March 31, 2022	July 19, 2023
April 1, 2022, to September 30, 2022	November 19, 2023
October 1, 2022, to December 31, 2022, or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	December 19, 2023, or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning January 1, 2023, whichever is later	Standard training

(2) "Hired" and "rehired" as used in this section mean the date of hire as defined in WAC 246-980-010. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in subsection (1) of this section.

(3) If a long-term care worker or home care aide is limited-English proficient, the worker may request an additional 60 days to obtain certification under WAC 246-980-065.

(4) Nothing in this section prevents a long-term care worker hired between August 17, 2019, and September 30, 2022, from completing



training or obtaining certification in advance of the deadlines stipulated in subsection (1) of this section.

[]

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

**WAC 246-980-030 Working while obtaining certification as a home care aide.** (1) A long-term care worker may provide care before receiving certification as a home care aide if all the following conditions are met:

(a) Before providing care, the long-term care worker must complete the training required by RCW 74.39A.074 (1)(d)(i)(A) and (B).

(b) The long-term care worker must submit an application for home care aide certification to the department within (~~fourteen~~) 14 calendar days of hire. An application is considered to be submitted on the date it is post-marked or, for applications submitted in person or online, the date it is accepted by the department.

(2) Except as provided in WAC 246-980-011, a long-term care worker is no longer eligible to provide care without a credential under the following circumstances:

(a) The long-term care worker does not successfully complete all of the training required by RCW 74.39A.074(1) within (~~one hundred twenty~~) 120 calendar days from their date of hire;

(b) The long-term care worker has not obtained their certification within (~~two hundred~~) 200 calendar days from their date of hire, or (~~two hundred sixty~~) 260 calendar days if granted a provisional certificate under RCW 18.88B.041.

(3) This section does not apply to long-term care workers exempt from certification under WAC 246-980-025.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-030, filed 9/28/18, effective 10/29/18. Statutory Authority: Chapters 18.88B and 18.130 RCW, 2012 c 164, and 2013 c 259. WSR 13-19-087, § 246-980-030, filed 9/18/13, effective 10/19/13. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-030, filed 7/20/10, effective 1/1/11.]

AMENDATORY SECTION (Amending WSR 21-02-002, filed 12/23/20, effective 1/23/21)

**WAC 246-980-040 Certification requirements.** (1) To qualify for certification as a home care aide, except as provided in WAC 246-980-011, the applicant must:

(a) Successfully complete all training required by RCW 74.39A.074(1) within (~~one hundred twenty~~) 120 calendar days of the date of hire as a long-term care worker;

(b) Successfully pass the home care aide certification examination, after completing training; and

(c) Become certified within (~~two hundred~~) 200 days of date of hire, or (~~two hundred sixty~~) 260 days if granted a provisional certificate under RCW 18.88B.041.

(2) An applicant for certification as a home care aide must submit to the department:

(a) A completed application for both certification and the examination on forms provided by the department;

(b) The exam fee set by the examination vendor and required fees under WAC 246-980-990; and

(c) A certificate of completion from an approved training program indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.074. The certificate of completion or other official verification may also be submitted directly from the approved instructor or training program.

(3) An applicant must submit to a state and federal background check as required by RCW 74.39A.056.

(4) An applicant exempt from certification under WAC 246-980-025(2) who voluntarily chooses to be certified must provide documentation of qualification for the exemption. The applicant is not required to take the training required in subsection (1)(a) of this section or provide proof of training completion to the department.

[Statutory Authority: RCW 18.19.050, 18.29.130, 18.29.210, 18.34.120, 18.46.060, 18.55.095, 18.84.040, 18.88B.060, 18.89.050, 18.130.050, 18.138.070, 18.155.040, 18.200.050, 18.205.060, 18.215.040, 18.230.040, 18.240.050, 18.250.020, 18.290.020, 18.360.030, 18.360.070, 70.41.030, 70.230.020, 71.12.670, and 18.108.085. WSR 21-02-002, § 246-980-040, filed 12/23/20, effective 1/23/21. Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-040, filed 9/28/18, effective 10/29/18. Statutory Authority: Chapters 18.88B and 18.130 RCW, 2012 c 164, and 2013 c 259. WSR 13-19-087, § 246-980-040, filed 9/18/13, effective 10/19/13. Statutory Authority: 2012 c 1 (Initiative 1163) and chapter 18.88B RCW. WSR 12-08-043, § 246-980-040, filed 3/30/12, effective 4/4/12. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-040, filed 7/20/10, effective 1/1/11.]

AMENDATORY SECTION (Amending WSR 16-09-004, filed 4/7/16, effective 5/8/16)

**WAC 246-980-065 Home care aide provisional certification.** (1)

The department may issue a provisional certification to a long-term care worker who is limited-English proficient and submits:

(a) A request for a provisional certification; and

(b) Verification of his or her date of hire as a long-term care worker, as follows:

(i) For individual providers, verification of the applicant's date of hire submitted directly by the department of social and health services; or

(ii) For all other applicants, a form supplied by the department and completed by the employer who hired the applicant as a long-term care worker, verifying the applicant's date of hire.

(2) A provisional certification will be issued only once.

(3) Except as provided in WAC 246-980-011, a provisional certification will take effect (~~two hundred~~) 200 days from the applicant's date of hire as a long-term care worker, as defined in WAC 246-980-010(2).

(4) Except as provided in WAC 246-980-011, a provisional certification will expire ((two hundred sixty)) 260 days from the applicant's date of hire as a long-term care worker. The applicant must stop working on the ((two hundred sixtieth)) 260th day of employment if the certification has not been granted for any reason.

(5) A request for provisional certification may be denied pursuant to chapter 18.130 RCW, the Uniform Disciplinary Act, or based on RCW 18.88B.080.

(6) For the purposes of this section, "limited-English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

[Statutory Authority: RCW 18.88B.060. WSR 16-09-004, § 246-980-065, filed 4/7/16, effective 5/8/16. Statutory Authority: 2013 c 259 and RCW 18.88B.035. WSR 14-09-002, § 246-980-065, filed 4/3/14, effective 5/4/14.]

## WSR 22-13-109

## EMERGENCY RULES

## BUILDING CODE COUNCIL

[Filed June 15, 2022, 2:03 p.m., effective June 15, 2022, 2:03 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Extend emergency rule to amended chapter 51-50 WAC of the International Building Code, regarding Chapter 35 Reference Standards and section 903, specifically addressing elevator pit sprinklers.

Also, extend emergency rule to amended chapter 51-54A WAC of the International Fire Code, regarding Chapter 80 Reference Standards and section 903, specifically addressing elevator pit sprinklers.

Citation of Rules Affected by this Order: New 2.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

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

Reasons for this Finding: The requirement for fire sprinklers in pits of hydraulic elevators is predicated by the amount of debris that is collected in the pit and the potential of an ignition source that could cause a fire. With the advent of hydraulic fluids that are combustible but at flashpoints near 450°F., the lack of ignition sources (cigarette use in buildings has significantly decreased), the reduction of combustible materials found in elevator pits, and the significant reduction nationally in the amount of elevator pit fires (see NFPA data attached), the need for a fire sprinkler in the pit and elevator equipment room [has] been significantly reduced. NFPA 13 has included language in the code commentary that the requirement of sprinklers in the pit needs to be evaluated for benefit compared to the additional cost to install sprinklers, additional detection, and a shunt trip to accommodate shutting off the power to the elevator before fire sprinklers are activated. Further, when the power [is] turned off to the elevators it could trap someone who is using the elevator. For that reason, some fire departments do not use elevators during a fire event as they would not have full control of it and responders could become trapped in the elevator.

Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. The council adopted the permanent rule on April 22, 2022, with an effective date of July 1, 2023 (WSR 22-13-093 and 22-13-094).

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 2, 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: February 15, 2022.

Tony Doan  
Chair

## OTS-3418.2

AMENDATORY SECTION (Amending WSR 20-21-021, filed 10/9/20, effective 11/9/20)

### **WAC 51-50-0903 Section 903—Automatic sprinkler systems.**

**903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.12.

**EXCEPTIONS:**

1. Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided that those spaces or areas are equipped throughout with an automatic smoke detection system in accordance with Section 907.2 and are separated from the remainder of the building by not less than one-hour fire barriers constructed in accordance with Section 707 or not less than two-hour horizontal assemblies constructed in accordance with Section 711, or both.
2. Bottom of the elevator hoistway in an enclosed and noncombustible elevator shaft.

**903.2.1.8 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

**903.2.3 Group E.** An automatic sprinkler system shall be provided for fire areas containing Group E occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

**EXCEPTIONS:**

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable school classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
3. Fire areas containing day care and preschool facilities with a total occupant load of 100 or less located at the level of exit discharge where every room in which care is provided has not fewer than one exit discharge door.

**903.2.6 Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

**EXCEPTIONS:**

1. An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in Group I-1 Condition 1 facilities.
2. Where new construction house ((~~sixteen~~)) 16 persons receiving care, an automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted for Group I-1, Condition 2, assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC.
3. An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in additions to existing buildings where both of the following situations are true:
  - 3.1. The addition is made to a building previously approved as Group LC or Group R-2 that houses either an assisted living facility licensed under chapter 388-78A WAC or residential treatment facility licensed under chapter 246-337 WAC.
  - 3.2. The addition contains spaces for ((~~sixteen~~)) 16 or fewer persons receiving care.

**903.2.6.1 Group I-4.** An automatic sprinkler system shall be provided in fire areas containing Group I-4 occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

**EXCEPTIONS:**

1. An automatic sprinkler system is not required for Group I-4 day care facilities with a total occupant load of 100 or less, and located at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door.
2. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge and all floors below the level of exit discharge other than areas classified as an open parking garage.

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m<sup>2</sup>).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).
4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m<sup>2</sup>).

**903.2.8 Group R.** An automatic fire sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

**903.2.9.3 Group S-1 upholstered furniture and mattresses.** An automatic sprinkler system shall be provided throughout a Group 5-1 fire area where the area used for storage of upholstered furniture exceeds 2,500 square feet (232 m<sup>2</sup>).

EXCEPTION:

Self-service storage facilities no greater than one story above grade plane where all storage spaces can be accessed directly from the exterior.

**903.2.11 Specific building areas and hazards.** In all occupancies other than Group U, an automatic sprinkler system shall be installed for building design or hazards in the locations set forth in Sections 903.2.11.1 through 903.2.11.7.

**903.2.11.7 Relocatable buildings within buildings.** Relocatable buildings or structures located within a building with an approved fire sprinkler system shall be provided with fire sprinkler protection within the occupiable space of the building and the space underneath the relocatable building.

EXCEPTIONS:

1. Sprinkler protection is not required underneath the building when the space is separated from the adjacent space by construction resisting the passage of smoke and heat and combustible storage will not be located there.
2. If the building or structure does not have a roof or ceiling obstructing the overhead sprinklers.
3. Construction trailers and temporary offices used during new building construction prior to occupancy.
4. Movable shopping mall kiosks with a roof or canopy dimension of less than 4 feet on the smallest side.

**903.3.5.3 Underground portions of fire protection system water supply piping.** The installation or modification of an underground water main, public or private, supplying a water-based fire protection system shall be in accordance with NFPA 24 and chapter 18.160 RCW. Piping and appurtenances downstream of the first control valve on the lateral or service line from the distribution main to one-foot above finished floor shall be approved by the fire *code official*. Such underground piping shall be installed by a fire sprinkler system contractor licensed in accordance with chapter 18.160 RCW and holding either a Level U or a Level 3 license. For underground piping supplying systems installed in accordance with Section 903.3.1.2, a Level 2, 3, or U licensed contractor is acceptable.

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-21-021, § 51-50-0903, filed 10/9/20, effective 11/9/20; WSR 20-01-090, §

51-50-0903, filed 12/12/19, effective 7/1/20; WSR 16-03-064, § 51-50-0903, filed 1/19/16, effective 7/1/16. Statutory Authority: RCW 19.27.074, 19.27.020, and 19.27.031. WSR 14-24-089, § 51-50-0903, filed 12/1/14, effective 5/1/15. Statutory Authority: RCW 19.27.031 and chapters 19.27 and 34.05 RCW. WSR 13-04-067, § 51-50-0903, filed 2/1/13, effective 7/1/13. Statutory Authority: Chapter 19.27 RCW. WSR 10-24-059, § 51-50-0903, filed 11/29/10, effective 7/1/11. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 10-03-097, § 51-50-0903, filed 1/20/10, effective 7/1/10. Statutory Authority: RCW 19.27.190, 19.27.020, and chapters 19.27 and 34.05 RCW. WSR 08-01-110, § 51-50-0903, filed 12/18/07, effective 4/1/08. Statutory Authority: RCW 19.27.074, 19.27.020, and chapters 70.92, 19.27, and 34.05 RCW. WSR 07-01-091, § 51-50-0903, filed 12/19/06, effective 7/1/07. Statutory Authority: RCW 19.27.020, 19.27.031, 19.27.074, and chapters 19.27 and 34.05 RCW. WSR 05-24-070, § 51-50-0903, filed 12/5/05, effective 7/1/06. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 04-01-108, § 51-50-0903, filed 12/17/03, effective 7/1/04.]

AMENDATORY SECTION (Amending WSR 20-21-021, filed 10/9/20, effective 11/9/20)

**WAC 51-50-3500 Chapter 35—Referenced standards.** Add the reference standards as follows:

Standard reference number	Title	Referenced in code section number
ANSI/APA PRG-320-18	Standard for Performance-Rated Cross-Laminated Timber (revised 2018)	602.4, 2303.1.4
NFPA 130-17	Standard for Fixed Guideway Transit and Passenger Rail Systems	3101.1, 3114
<u>NFPA 13-16</u>	<u>Standard for the Installation of Sprinkler Systems (except 8.15.5.3(5))</u>	<u>403.3.3, 712.1.3.1, 903.3.1.1, 903.2, 903.3.8.2, 903.8.5, 904.13, 905.3.4, 907.6.4, 1019.3</u>

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-21-021, § 51-50-3500, filed 10/9/20, effective 11/9/20; WSR 20-01-090, § 51-50-3500, filed 12/12/19, effective 7/1/20; WSR 19-02-038, § 51-50-3500, filed 12/26/18, effective 7/1/19; WSR 16-03-064, § 51-50-3500, filed 1/19/16, effective 7/1/16. Statutory Authority: RCW 19.27.031 and chapters 19.27 and 34.05 RCW. WSR 13-04-067, § 51-50-3500, filed 2/1/13, effective 7/1/13.]

**OTS-3419.2**

AMENDATORY SECTION (Amending WSR 21-04-003, filed 1/20/21, effective 2/20/21)

**WAC 51-54A-0903 Automatic sprinkler systems.**

**903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.12.

**EXCEPTIONS:**

1. Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided that those spaces or areas are equipped throughout with an automatic smoke detection system in accordance with Section 907.2 and are separated from the remainder of the building by not less than one-hour fire barriers constructed in accordance with Section 707 of the International Building Code or not less than two-hour horizontal assemblies constructed in accordance with Section 711 of the International Building Code, or both.
2. Bottom of the elevator hoistway in an enclosed and noncombustible elevator shaft.

**903.2.1.6 Assembly occupancies on roofs.** Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2, and 300 for other Group A occupancies, the building shall be equipped with an *automatic sprinkler system* in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTION: Open parking garages of Type I or Type II construction.

**903.2.1.8 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

**903.2.3 Group E.** An automatic sprinkler system shall be provided for fire areas containing Group E occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

**EXCEPTIONS:**

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
3. Fire areas containing day care and preschool facilities with a total occupant load of 100 or less located at the level of exit discharge where every room in which care is provided has not fewer than one exit discharge door.

**903.2.6 Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I *fire area*.

**EXCEPTIONS:**

1. An *automatic sprinkler system* installed in accordance with Section 903.3.1.2 shall be permitted in Group I-1 Condition 1 facilities.
2. Where new construction or additions house less than ((sixteen)) 16 persons receiving care, an automatic sprinkler system installed in accordance with Section 903.2.8.3 shall be permitted for Group I-1, Condition 2, assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC.

**903.2.6.1 Group I-4.** An automatic sprinkler system shall be provided in fire areas containing Group I-4 occupancies where the fire area has an occupant load of 51 or more, calculated in accordance with Table 1004.1.2.

**EXCEPTIONS:**

1. An automatic sprinkler system is not required where Group I-4 day care facilities with a total occupant load of 100 or less, and located at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door.
2. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge and all floors below the level of exit discharge other than areas classified as an open parking garage.

**903.2.8 Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R *fire area*.

**EXCEPTION:**

- Group R-1 if all of the following conditions apply:
1. The Group R *fire area* is no more than 500 square feet and is used for recreational use only.
  2. The Group R *fire area* is on only one story.
  3. The Group R *fire area* does not include a basement.
  4. The Group R *fire area* is no closer than 30 feet from another structure.
  5. Cooking is not allowed within the Group R *fire area*.
  6. The Group R *fire area* has an occupant load of no more than 8.
  7. A hand-held (portable) fire extinguisher is in every Group R *fire area*.

**903.2.9 Group S-1.** An *automatic sprinkler system* shall be provided throughout all buildings containing a Group S-1 occupancy where one of the following conditions exists:

1. A Group S-1 *fire area* exceeds 12,000 square feet (1115 m<sup>2</sup>).
2. A Group S-1 *fire area* is located more than three stories above grade plane.



3. The combined area of all Group S-1 *fire areas* on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).

4. A Group S-1 *fire area* used for the storage of commercial motor vehicles where the *fire area* exceeds 5,000 square feet (464 m<sup>2</sup>).

**903.2.9.3 Group S-1 Upholstered furniture and mattresses.** An automatic sprinkler system shall be provided throughout a Group S-1 fire where the area used for the storage of upholstered furniture exceeds 2,500 square feet (232 m<sup>2</sup>).

EXCEPTION: Self-service storage facilities no greater than one story above grade plane where all storage spaces can be accessed directly from the exterior.

**903.2.11.1.3 Basements.** Where any portion of a basement is located more than 75 feet (22,860 mm) from openings required by Section 903.2.11.1, or where new walls, partitions or other similar obstructions are installed that increase the exit access travel distance to more than 75 feet, the basement shall be equipped throughout with an approved automatic sprinkler system.

**903.2.11.7 Relocatable buildings within buildings.** Relocatable buildings or structures located within a building with an approved fire sprinkler system shall be provided with fire sprinkler protection within the occupiable space of the building and the space underneath the relocatable building.

EXCEPTIONS: 1. Sprinkler protection is not required underneath the building when the space is separated from the adjacent space by construction resisting the passage of smoke and heat and combustible storage will not be located there.  
2. If the building or structure does not have a roof or ceiling obstructing the overhead sprinklers.  
3. Construction trailers and temporary offices used during new building construction prior to occupancy.  
4. Movable shopping mall kiosks with a roof or canopy dimension of less than 4 feet on the smallest side.

**903.3.5.3 Underground portions of fire protection system water supply piping.** The portion of the installation or modification of an underground water main, public or private, dedicated to supplying a water-based fire protection system shall be in accordance with NFPA 24 and chapter 18.160 RCW. Piping and appurtenances downstream of the first control valve on the lateral or service line from the distribution main to one-foot above finished floor shall be approved by the fire code official. Such underground piping shall be installed by a fire sprinkler system contractor licensed in accordance with chapter 18.160 RCW and holding either a Level U or a Level 3 license. For underground piping supplying systems installed in accordance with Section 903.3.1.2, a Level 2, 3, or U licensed contractor is acceptable.

EXCEPTION: Portions of underground piping supplying automatic sprinkler systems installed in accordance with NFPA 13D.

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 21-04-003, § 51-54A-0903, filed 1/20/21, effective 2/20/21; WSR 19-24-058, § 51-54A-0903, filed 11/27/19, effective 7/1/20. Statutory Authority: Chapter 19.27 RCW and RCW 19.27.031. WSR 17-10-028, § 51-54A-0903, filed 4/25/17, effective 5/26/17. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 16-03-055, § 51-54A-0903, filed 1/16/16, effective 7/1/16. Statutory Authority: RCW 19.27.074, 19.27.020, and 19.27.031. WSR 14-24-090, § 51-54A-0903, filed 12/1/14, effective 5/1/15. Statutory Authority: RCW 19.27A.031, 19.27.074 and chapters 19.27 and 34.05 RCW. WSR 13-04-063, § 51-54A-0903, filed 2/1/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 19-02-086, filed 1/2/19, effective 7/1/19)

WAC 51-54A-8000 Referenced standards.

NFPA 13-16: Standard for the Installation of Sprinkler Systems (except 8.15.5.3(5)) . . . . . 903.3.1.1, 903.3.2, 903.3.8.2, 903.3.8.5, 904.13, 905.3.4, 907.6.4, 914.3.2, 1019.3, 1103.4.8, 3201.1, 3204.2, 3205.5, Table 3206.2, 3206.4.1, 3206.10, 3207.2, 3207.2.1, 3208.2.2, 3208.2.2.1, 3208.4, 3210.1, 3401.1, 5104.1, 5104.1.1, 5106.5.7, 5704.3.3.9, Table 5704.3.6.3(7), 5704.3.7.5.1, 5704.3.8.4

NFPA 96-07 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations . . . . . 609.3

NFPA 720-15 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units . . . . . 1103.9

NFPA 130-17 Standard for Fixed Guideway Transit and Passenger Rail Systems . . . . . 3901.1

[Statutory Authority: RCW 19.27.031, 19.27.074 and chapter 19.27 RCW. WSR 19-02-086, § 51-54A-8000, filed 1/2/19, effective 7/1/19. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 16-03-055, § 51-54A-8000, filed 1/16/16, effective 7/1/16. Statutory Authority: RCW 19.27A.031, 19.27.074 and chapters 19.27 and 34.05 RCW. WSR 13-04-063, § 51-54A-8000, filed 2/1/13, effective 7/1/13.]

**WSR 22-13-113**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-107—Filed June 15, 2022, 4:04 p.m.]

Effective Date of Rule: July 1, 2022.

Purpose: The purpose of this emergency rule is to open recreational crab seasons in Puget Sound.

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

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

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

Reasons for this Finding: This emergency rule is needed to open the recreational crab harvest in the marine areas listed to achieve the 50/50 harvest defined by the federal court order. Recreational crab fisheries will open at 12:01 a.m. on the first day instead of 7:00 a.m. in each of the marine areas as stipulated by the permanent rule. Marine Area 12 south of a line projected due east from Ayock Point and Marine Area 13 will be closed. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 15, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000E Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective July 1, through September 30, 2022, 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. July 1, through 11:59 p.m. September

5, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(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. July 14, through 11:59 p.m. September 30, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(3) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. August 18, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(4) Marine Area 10: Effective 12:01 a.m. July 3, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Sundays and Mondays.

(5) Marine Area 11: Effective 12:01 a.m. July 3, through 11:59 p.m. August 29, 2022, it is permissible to fish for crab for personal use on Sundays and Mondays.

(6) The portion of Marine Area 12 north of a line projected due east from Ayock Point: Effective 12:01 a.m. July 1, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(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 the Washington Administrative Code is repealed effective September 30, 2022:

WAC 220-330-04000E Crab—Areas and seasons—Personal use.

WSR 22-13-117  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 22-108—Filed June 16, 2022, 5:06 p.m., effective June 16, 2022, 5:06 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

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

Reasons for this Finding: Sets the summer select area commercial seasons. Impacts to nonlocal stocks are expected to be minimal while allowing harvest of local Chinook stocks reared for the select area sites. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of February 15, 2022. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent rules.

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

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under ESA. The Washington and Oregon fish

and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

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

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

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

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

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

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

Date Adopted: June 16, 2022.

Kelly Susewind  
Director

NEW SECTION

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

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

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

Open_Dates	Open_Days	Open_Time	Open_Duration
Jun 16 - Jul 15	Mon, Thu (nights)	7:00 pm - 7:00 am	9 nights

(a) Area definitions:

(i) June 16 through July 15, 2022:

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

(B) South Channel: Defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of Lois Island, and a line from a regulatory marker on Settler

Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(b) Gear: Gillnets:

(i) June 16 through July 15, 2022: 9 3/4-inch maximum mesh size.

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

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

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

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

Open_Dates	Open_Days	Open_Time	Open_Duration
June 16 - July 15	Mon, Thu (nights)	7:00 pm - 7:00 am	9 nights

(a) Areas:

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

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

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

(b) Gear: Gillnets:

(i) June 16 through July 15, 2022: 9 3/4-inch maximum mesh size.

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

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

(c) Miscellaneous:

Permanent transportation rules in effect. In accordance with WACs 220-352-040 (1)(i) and 220-301-010 (11)(a-b), commercial fishers are expected, and fish dealers are required, to report landings for winter-summer fisheries in Knappa Slough and Blind Slough separately using appropriate zone codes. Fish dealers are requested to keep landings from these two sites separate to aid in sampling.

**(3) Allowable Sales:** Salmon (except Chum), white sturgeon and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

**(4) 24-hour quick reporting** is in effect for Washington buyers (WAC 220-352-315). Permanent transportation rules in effect. Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210. Unique catch reporting codes have been established for Blind Slough and Knappa Slough to facilitate separation of landings and sampling for winter/spring fisheries. Blind Slough and Knappa Slough have unique catch reporting codes to facilitate separation of landings and sampling for winter/spring fisheries.

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

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

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000K Columbia River below Bonneville Dam.  
(22-78)



**WSR 22-13-120**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-105—Filed June 17, 2022, 9:46 a.m., effective June 17, 2022, 9:46 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule is necessary to increase the adult salmon daily limit in the Lewis River. It is also necessary to return lower Klickitat River salmon and steelhead seasons, and Cowlitz River salmon seasons to permanent rules; other rules contained in WSR 22-13-061 (Order 22-98, June 7, 2022) regarding upper Klickitat River are maintained by this rule.

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

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

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

Reasons for this Finding: Salmon retention on the Cowlitz River was closed for portions of the season and, when open, adult retention has been limited to one adult Chinook to help ensure the spring Chinook broodstock collection goal was achieved. Adult broodstock collection is currently on track and goals are expected to be met. Additionally, upstream transport of hatchery adults in excess of weekly broodstock collections targets is occurring for reintroduction purposes. Therefore, returning to permanent rules is warranted.

The adult salmon daily limit on the Klickitat River was reduced earlier in the year to help ensure the spring Chinook broodstock collection goal was achieved. Fishery comanagers have recently indicated that spring Chinook counts at the Lyle Falls adult trap have been good and escapement to the Klickitat Hatchery is on track to meet the broodstock collection goal. The majority of spring Chinook pass Lyle Falls by the end of June; therefore, a reduced daily limit is no longer needed in the lower Klickitat, as broodstock collection continues at Klickitat Salmon Hatchery.

Spring Chinook salmon returns to the Lewis Hatchery are projected to meet broodstock collection goals for the Lewis Hatchery programs. Additionally, upstream transport of adults in excess of weekly broodstock collections targets is occurring for reintroduction purposes. Modifying fisheries will provide additional fishing opportunities while still meeting program and reintroduction goals.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 16, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-03000N Freshwater exceptions to statewide rules—Southwest.** Effective June 17, 2022, until further notice, the provisions of WAC 220-312-030 regarding Klickitat and Lewis river's salmon seasons shall be modified during times and as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

**(1) Klickitat River (Klickitat Co.):**

From 400 feet upstream from #5 fishway to boundary markers below Klickitat Salmon hatchery: Effective immediately, until further notice:

Salmon: Daily limit 6; up to 1 adult may be retained. Release wild Chinook.

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

From the mouth to the overhead powerlines below Merwin Dam: Effective June 17, through July 31, 2022:

Salmon: Daily limit 6; up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed, effective June 17, 2022:

WAC 220-312-03000K Freshwater exceptions to statewide rules—Southwest. (22-76)

WAC 220-312-03000M Freshwater exceptions to statewide rules—Southwest. (22-98)

**WSR 22-13-132**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-106—Filed June 17, 2022, 3:31 p.m., effective June 17, 2022, 3:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Puget Sound recreational shrimp rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000L; and amending WAC 220-330-070.

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 regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. Harvestable amounts of spot shrimp are available, but recreational shares will only support a limited number of days in the marine areas listed in this section. In addition, this emergency regulation opens the Marine Area 4 (east of the Bonilla-Tatoosh line), 5, 6, and 7 West seasons one hour before sunrise to one hour after sunset, which is the default daily start time and end time for those areas. This regulation opens the recreational nonspot shrimp fisheries on the dates listed for Marine Areas 9 and 11 and maintains the recreational nonspot shrimp fishery already open in Marine Area 13. The nonspot shrimp fisheries have maximum depth restrictions specific to each area to limit capture and handling of spot shrimp. Spot shrimp must be immediately released unharmed during nonspot shrimp seasons. 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: June 17, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-07000M Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-070, effective immediately it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open each day, from 1 hour before official sunrise to 1 hour after official sunset, until further notice for all shrimp species.

(2) Marine Area 6 (excluding the Discovery Bay Shrimp District): Open from 1 hour before official sunrise to 1 hour after official sunset on June 23 through 25, July 7 through 9, and July 21 through 23 for all shrimp species.

(3) Marine Area 7 West: Open from 1 hour before official sunrise to 1 hour after official sunset on June 23 through 25, and July 7 through 9 for all shrimp species.

(4) Marine Areas 8-1 and 8-2:

a. June 23 from 9:00 a.m. through 1:00 p.m. for all shrimp species.

b. Divers may take shrimp by hand or hand-held device from 7:00 p.m. until midnight on June 23 in Marine Area 8-2.

(5) Marine Area 9: Effective immediately through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(6) Marine Area 11: Open effective immediately through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(7) Marine Area 12: Open June 23 and July 6 from 9:00 a.m. through 1:00 p.m. for all shrimp species.

(8) Marine Area 13: Open through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-330-07000L Shrimp—Areas and seasons. (22-88)

**WSR 22-13-143**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-100—Filed June 21, 2022, 8:32 a.m., effective June 21, 2022, 8:32 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set 2022 coastal recreational salmon seasons.

Citation of Rules Affected by this Order: Amending WAC 220-313-075.

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

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

Reasons for this Finding: The purpose of this rule is to open ocean recreational salmon seasons in Marine Areas 1-4 in state waters in a manner consistent with federal salmon fishing regulations adopted by the National Marine Fisheries Service in response to actions taken by the Pacific Fishery Management Council (PFMC) to set annual salmon fishery harvest specifications and management measures; this action is intended to achieve regulatory consistency in federal and state waters for the ocean recreational salmon fishery, which operates in both areas.

The ocean recreational salmon fishing seasons are developed and considered through the annual PFMC process, which coincides with the North of Falcon salmon season setting process and is managed under the Pacific Coast Salmon Fishery Management Plan (FMP). By managing this fishery under the FMP, it is required to be consistent with national standard guidelines, which ensure conservation objectives are achieved as well as long-term fishery sustainability, and that the social and economic needs of fishing communities are taken into account.

Because the ocean recreational salmon fishery occurs in Pacific Ocean waters across multiple jurisdictions (states of Washington and Oregon, tribal, and federal), developing and considering ocean recreational salmon season options through PFMC ensures that fishing regulations are developed in a comprehensive, coordinated manner. Having consistent regulations in state and federal waters also promotes compliance with and enforcement of fishing regulations, particularly as anglers often fish in both state and federal waters on the same fishing trip.

While these regulations are being adopted through an emergency rule, the seasons described in these rules were developed and considered through an extensive open public process, which began early in 2022. The process includes multiple opportunities for public engagement. Throughout the course of a three-month process, the public may: Submit written comments, provide testimony at the March and/or April PFMC meetings, attend public hearings held in each west coast state, or provide comment through representation on the PFMC's Salmon Advisory Subpanel.

Following the April PFMC meeting, when these seasons were adopted, PFMC formally transmitted these regulations to the National Marine Fisheries Service (NMFS) for consistency determination. This

transmittal occurred on April 28, 2022, and the NMFS final rule that opened this fishery was published on May 16, 2022. There was insufficient time for Washington department of fish and wildlife to adopt consistent regulations through the permanent rule-making process.

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: June 14, 2022.

Kelly Susewind  
Director

#### NEW SECTION

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

Effective immediately, through October 8, 2022 the provisions of WAC 220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

(1) **Catch Record Card Area 1:** Open June 25 through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
- (b) Release wild coho.
- (c) Chinook minimum length 22 inches.
- (d) Coho minimum length 16 inches.

(2) **Catch Record Card Area 2:** Open July 2 through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
- (b) Release wild coho.
- (c) Chinook minimum length 22 inches.
- (d) Coho minimum length 16 inches.

(e) July 2, 2022 through August 7, 2022 the Grays Harbor Control Zone is open. See WAC 220-306-040.

(3) **Catch Record Card Area 3:**

(a) Open immediately, through September 30, 2022:

- (i) Daily limit of 2 salmon.
- (ii) Release wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.
- (v) Release chum beginning August 1.

(b) Open October 5 through October 8, 2022 only in the area north of 47°50'00" N. lat. and south of 48°00'00" N. lat.:

- (i) Daily limit 2 Chinook salmon only.

(ii) Release all salmon except Chinook.

(iii) Chinook minimum length 24 inches.

(4) **Catch Record Card Area 4:**

(a) Open immediately, through September 30, 2022:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) Chinook minimum length 24 inches.

(iv) Coho minimum length 16 inches.

(v) No chinook retention in waters east of the Bonilla-Tatoosh line beginning August 1.

(vi) Release chum salmon beginning August 1.

(b) Waters east of a true north-south line through Sail Rock are closed through July 31.

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**WSR 22-13-166**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-109—Filed June 21, 2022, 4:55 p.m., effective June 21, 2022, 4:55 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The provisions of this emergency rule: (1) Closes commercial nonspot shrimp fishing in Region 1B in Puget Sound one hour after official sunset on June 22, 2022; and (2) allows spot shrimp commercial harvest from select subareas and subregions simultaneously in a single day.

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

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

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

Reasons for this Finding: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require adoption of harvest seasons contained in this emergency rule. This emergency rule is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound.

This rule allows harvesters to both respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: June 21, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-52000V Commercial shrimp pot fishery—Puget Sound.** Notwithstanding the provisions of WAC 220-340-520, immediately, until further notice, or until they expire pursuant to RCW 34.05.350, it is



unlawful to fish for shrimp for commercial purposes using pot gear in Puget Sound except as provided for in this section:

(1) In all areas fishers are limited to a maximum of 100 spot shrimp pots, as defined in WAC 220-340-520 (5)d, and a maximum of 100 non-spot shrimp pots, as defined in WAC 220-340-520 (5)e.

(2) Spot Shrimp Pot Harvests:

(a) Spot shrimp harvest is permitted as indicated in the following table opening one hour before official rise until further notice. Any closures take effect one hour after official sunset.

<b>Geographical Management Unit (WAC 220-320-140)</b>	<b>Status</b>	<b>Effective Date</b>
Subregion 1A	Open	immediately
Subregion 1B	Closed	
Subregion 1C	Open	immediately
Region 2E	Closed	
Region 2W	Closed	
Subarea 23A-E	Open	immediately
Subarea 23A-W	Open	immediately
Subarea 23A-C and MSFS Catch Area 23B	Open	immediately
Subarea 23A-S and MSFS Catch Area 23D	Open	immediately
MFSF Catch Area 23C	Open	immediately
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Open	immediately
Discovery Bay Shrimp District	Closed	
MFSF 29 (Straits - Neah Bay)	Open	immediately
Subarea 26B-1 and MFSF Catch Area 26C	Closed	
Subarea 26B-2	Open	immediately
Region 5	Closed	
MFSF Catch Area 26D	Closed	
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed	

(b) The first spot shrimp catch accounting period starts one hour before official sunrise on May 1, 2022, through one hour after official sunset on August 2, 2022.

(c) It is unlawful for the total harvest during the first spot shrimp accounting period to exceed 4,500 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) It is unlawful to harvest spot shrimp from more than one Geographical Management Unit listed in 2(a) in a single day with the following exceptions:

(i) Spot shrimp may be harvested from subregion 1A and subregion 1C on the same day.

(ii) Spot shrimp may be harvested from subarea 23A-E, and either 23A-W, 23A-C or MFSF Catch Area 23B on the same day.

(3) Non-spot shrimp pot harvests:

(a) Non-spot shrimp pot harvest is permitted as indicated in the following table opening one hour before official rise until further notice. Any closures take effect one hour after official sunset.

Geographical Management Unit (WAC 220-320-140)	Status	Effective Date
Subregion 1A	Open	immediately
Subregion 1B	Open	6/22/2022
Subregion 1C	Closed	
Region 2E	Open	immediately
Region 2W	Open	immediately
Region 3, not including Discovery Bay Shrimp District	Open	immediately
Discovery Bay Shrimp District	Open	immediately
Region 4	Closed	
Region 5	Closed	
Region 6	Closed	

(b) The non-spot shrimp catch accounting period is weekly from one hour before official sunrise each Wednesday through one hour after official sunset on the subsequent Tuesday, totaling 7 days in length.

(c) It is unlawful for the combined total harvest of non-spot shrimp per license to exceed 700 pounds per non-spot shrimp catch accounting week from subregions 1A, 1B, 1C, and Region 2E combined.

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

(e) Harvest of non-spot shrimp is not permitted deeper than 175 feet in subarea 23A East or subregion 1A.

(f) It is unlawful to harvest non-spot shrimp in more than one Geographical Management unit listed in 3(a) in a single day with the following exceptions:

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

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

[]

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

REPEALER

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

WAC 220-340-52000U Commercial shrimp pot fishery—Puget Sound (22-92).

## WSR 22-13-167

## EMERGENCY RULES

## BUILDING CODE COUNCIL

[Filed June 21, 2022, 5:05 p.m., effective June 21, 2022, 5:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Extend the emergency rule deleting WAC 51-54A-8200 Wildland-Urban Interface Code, from the International Fire Code. Initial emergency rule filed under WSR 21-22-008.

Citation of Rules Affected by this Order: New 1.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

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

Reasons for this Finding: The state building code council (SBCC) was notified by local jurisdictions that the mapping, RCW, and WAC did not align to produce an enforceable code. SBCC agreed to delete the state amendment in the International Fire Code and to add the 2021 Wildland-Urban Interface Code to the Group 2 rule-making process. This would allow SBCC to develop and adopt more accurate and enforceable code. The goal is to make the wildland-urban interface code a stand-alone code with Washington state amendments.

The council adopted the permanent rule on April 22, 2022, with an effective date of July 1, 2023 (WSR 22-13-093). The emergency rule will be extended until the permanent rule takes effect.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 1, 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: June 16, 2022.

Tony Doan  
Chair

**OTS-3416.1**

AMENDATORY SECTION (Amending WSR 20-01-162, filed 12/18/19, effective 7/1/20)

**WAC 51-54A-8200** (~~(International Wildland-Urban Interface Code.)~~)  
**Reserved.**

~~((101.5 Additions or alterations. Additions or alterations may be made to any building or structure without requiring the existing building or structure to comply with all of the requirements of this code, provided the addition or alteration conforms to that required for a new building or structure.~~

EXCEPTION: Provisions of this code that specifically apply to existing conditions are retroactive. See Sections 402.3, 601.1 and Appendix A.

~~Additions or alterations shall not cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this code or will obstruct existing exits or access; will create a fire hazard; will reduce required fire resistance or will otherwise create conditions dangerous to human life.~~

~~**108.3 Site plan.** In addition to the requirements for plans in the *International Building Code*, the code official may require site plans which include topography, width and percent of grade of access roads, landscape and vegetation details, locations of structures or building envelopes, existing or proposed overhead utilities, occupancy classification of buildings, types of ignition resistant construction of buildings, structures and their appendages, roof classification of buildings, and site water supply systems. The code official is authorized to waive or modify the requirement for a site plan.~~

~~**108.4 Vegetation management plans.** When required by the code official or when utilized by the permit applicant pursuant to Section 502, vegetation management plans shall be prepared and shall be submitted to the code official for review and approval as part of the plans required for a permit. See Appendix B.~~

~~**108.7 Vicinity plan.** When required by the code official, the requirements for site plans shall include details regarding the vicinity within 300 feet (91,440 mm) of property lines, including other structures, slope, vegetation, fuel breaks, water supply systems and access roads.~~

~~**402.1.1 Access.** New subdivisions, as determined by this jurisdiction, shall be provided with fire apparatus access roads in accordance with the *International Fire Code*.~~

~~**402.1.2 Water supply.** New subdivisions, as determined by this jurisdiction, shall be provided with water supply in accordance with the *International Fire Code*.~~

~~**402.2 Individual structures.** Individual structures shall comply with Sections 402.2.1 and 402.2.2.~~

~~**402.2.1 Access.** Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with fire apparatus access in accordance with the *International Fire Code*.~~

~~**402.2.2 Water supply.** Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with a conforming water supply in accordance with the *International Fire Code*.~~

EXCEPTIONS: 

1. Structures constructed to meet the requirements for the class of ignition-resistant construction specified in Table N503.1 for a noneonforming water supply.
2. Buildings containing only private garages, carports, sheds and agricultural buildings with a floor area of not more than 600 square feet (56 m<sup>2</sup>).

~~**402.3 Existing conditions.** Existing address markers, roads and fire protection equipment shall be in accordance with the *International Fire Code*.~~

**Table 503.1**  
**Ignition-Resistant Construction<sup>a</sup>**

	Fire Hazard Severity					
	Moderate Hazard		High Hazard		Extreme Hazard	
	Water Supply <sup>b</sup>		Water Supply <sup>b</sup>		Water Supply <sup>b</sup>	
<b>Defensible Space<sup>c</sup></b>	Conforming	Nonconforming	Conforming	Nonconforming	Conforming	Nonconforming
Noneonforming	IR-2	IR-1	IR-1	IR-1 N.C.	IR-1 N.C.	Not Permitted
Conforming	IR-3	IR-2	IR-2	IR-1	IR-1	IR-1 N.C.
1.5 x Conforming	Not Required	IR-3	IR-3	IR-2	IR-2	IR-1

<sup>a</sup>Access shall be in accordance with Section 402.

<sup>b</sup>Water supply shall be in accordance with Section 402.1.

IR-1 = Ignition-resistant construction in accordance with Section 504.

IR-2 = Ignition-resistant construction in accordance with Section 505.

IR-3 = Ignition-resistant construction in accordance with Section 506.

N.C. = Exterior walls shall have a fire-resistance rating of not less than 1 hour and the exterior surfaces of such walls shall be noncombustible. Usage of log wall construction is allowed.

<sup>c</sup>Conformance based on Section 603.

~~**403 Access.** This section not adopted.~~

~~**404 Water supply.** This section not adopted.~~

~~APPENDIX B VEGETATION MANAGEMENT PLAN — THIS APPENDIX IS ADOPTED.~~

~~APPENDIX D FIRE DANGER RATING SYSTEM — THIS APPENDIX IS ADOPTED.) )~~

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-01-162, § 51-54A-8200, filed 12/18/19, effective 7/1/20. Statutory Authority: Chapter 19.27 RCW and RCW 19.27.031. WSR 17-10-028, § 51-54A-8200, filed 4/25/17, effective 5/26/17. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 16-03-055, § 51-54A-8200, filed 1/16/16, effective 7/1/16.]

WSR 22-13-171  
EMERGENCY RULES  
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 22, 2022, 8:04 a.m., effective July 1, 2022]

Effective Date of Rule: July 1, 2022.

Purpose: The department is amending WAC 388-400-0060 Who is eligible for aged, blind or disabled (ABD) cash assistance?, 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits?, 388-447-0130 What referral to the housing and essential needs (HEN) program rules may the department implement during a state of emergency?, and 388-449-0230 What aged, blind, or disabled (ABD) program rules may the department implement during a state of emergency?

These amendments eliminate the mid-certification review (MCR) requirement for recipients of ABD program and HEN referral program.

Citation of Rules Affected by this Order: Amending 388-400-0060, 388-418-0011, 388-447-0130, and 388-449-0230.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.09.530, and 74.62.030.

Other Authority: 2021-2023 Supplemental operating budget (section 205(21), chapter 297, Laws of 2022.)

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: State law requires immediate adoption. Effective July 1, 2022, the supplemental operating budget provides funding for the elimination of the MCR requirement for all ABD/HEN referral program recipients.

The department is concurrently proceeding with the permanent rule-making process and filed a CR-101 under WSR 22-11-083 on May 17, 2022.

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

Date Adopted: June 22, 2022.

Katherine I. Vasquez  
Rules Coordinator

SHS-4933.1

AMENDATORY SECTION (Amending WSR 20-19-006, filed 9/3/20, effective 10/4/20)

**WAC 388-400-0060 Who is eligible for aged, blind, or disabled (ABD) cash assistance?** (1) The aged, blind, or disabled (ABD) cash assistance program provides a state-funded cash stipend and a referral to the housing and essential needs (HEN) program under WAC 388-400-0065 to eligible low-income individuals.

(2) You are eligible for ABD if you:

(a) Are:

(i) At least ~~((sixty-five))~~ 65 years old;

(ii) Blind as defined by the Social Security Administration (SSA); or  
(iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and

(b) Are at least ~~((eighteen))~~ 18 years old or, if under ~~((eighteen))~~ 18, a member of a married couple;

(c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470, and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0060;

(d) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;

(e) Meet the citizenship and alien status requirements under WAC 388-424-0015;

(f) Provide a Social Security number as required under WAC 388-476-0005;

(g) Reside in the state of Washington as required under WAC 388-468-0005;

(h) Sign an interim assistance reimbursement authorization agreeing to repay the monetary value of general assistance, disability lifeline, or aged, blind, or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210, and 388-474-0020; and

(i) Report changes of circumstances as required under WAC 388-418-0005 ~~((and))~~.

~~((j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.))~~

(3) You aren't eligible for ABD if you:

(a) Are eligible for temporary assistance for needy families (TANF) benefits;

(b) Are eligible for state family assistance (SFA) benefits;

(c) Refuse or fail to meet a TANF or SFA eligibility rule;

(d) Refuse or fail to pursue federal aid assistance, including but not limited to medicaid, without good cause;

(e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause;

(f) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200 without good cause;

(g) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225 without good cause;

(h) Are eligible for supplemental security income (SSI) benefits;

(i) Are an ineligible spouse of an SSI recipient; or

(j) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

(4) If you reside in a public institution and meet all other requirements, your eligibility for ABD depends on the type of institu-

tion. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for ABD if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and:

(A) (~~Sixty-five~~) 65 years of age or older; or

(B) (~~Twenty~~) 20 years of age or younger.

(5) You aren't eligible for ABD when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement in a work release program.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.030, and 2020 c 322. WSR 20-19-006, § 388-400-0060, filed 9/3/20, effective 10/4/20. Statutory Authority: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090, and 2018 c 48. WSR 18-18-007, § 388-400-0060, filed 8/23/18, effective 9/23/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, and 2013 2nd sp.s. c 10. WSR 13-24-040, § 388-400-0060, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-400-0060, filed 4/27/12, effective 6/1/12.]

AMENDATORY SECTION (Amending WSR 20-20-004, filed 9/24/20, effective 10/25/20)

**WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits?** (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or basic food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) (~~Only-r~~) Receive ((R)) refugee ((€)) cash ((A)) assistance as described under WAC 388-400-0030;

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060; ((and are age sixty-five or older; or))

(iii) Receive a referral to the housing and essential needs (HEN) program as described under WAC 388-400-0070; or

~~((iii))~~ (iv) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) **When we send the review form:**



If you must complete a MCR ...	We send your review form ...
(a) For one program such as basic food.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(c) For basic food and another program when either program has a certification or review period between six and <del>((twelve))</del> <u>12</u> months.	In the fifth month of your basic food certification period when you receive basic food and another program. You must complete your review by the 10th day of month six of your basic food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even

if this does not give you (~~ten~~) 10 days notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510 and 2020 c 357. WSR 20-20-004, § 388-418-0011, filed 9/24/20, effective 10/25/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510 and 2011 c 15. WSR 13-09-034, § 388-418-0011, filed 4/11/13, effective 6/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090 and Public Law 109-171, TANF Interim Final Rule published in the Federal Register - Volume 71, No. 125 on June 29, 2006. WSR 08-02-053, § 388-418-0011, filed 12/28/07, effective 2/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090. WSR 06-24-025 and 07-01-023, § 388-418-0011, filed 11/29/06 and 12/8/06, effective 10/1/07; WSR 06-13-043, § 388-418-0011, filed 6/15/06, effective 7/17/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 05-09-020, § 388-418-0011, filed 4/12/05, effective 6/1/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-19-134, § 388-418-0011, filed 9/21/04, effective 10/1/04.]

AMENDATORY SECTION (Amending WSR 21-07-004, filed 3/4/21, effective 4/4/21)

**WAC 388-447-0130 What referral to the housing and essential needs (HEN) program rules may the department implement during a state of emergency?** During a declared state of emergency, the department may implement the following rules to help mitigate impacts to clients:

(1) Postpone review of your HEN referral program eligibility beyond the (~~twelve~~) 12 month period if the department determines you are not eligible for the aged, blind, or disabled (ABD) program at the time of your incapacity review. The postponement of this review may occur retroactively to the date the governor declares a state of emergency.

(2) Accept a diagnosis of a medically determinable impairment from a "supplemental medical evidence" source in subsection (2) of WAC 388-447-0005, or the predictive risk intelligence system (PRISM).

(3) Accept functional medical evidence beyond (~~ninety~~) 90 days of the date of application or incapacity review, or otherwise waive the requirement of WAC 388-447-0010 (3)(c) in its entirety.

(4) Suspend or waive eligibility review requirements detailed in WAC 388-434-0005 for referral to the HEN program.

~~((5) Suspend or waive mid-certification review requirements detailed in WAC 388-418-0001 for referral to the HEN program.))~~

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.09.530, 74.08A.100. WSR 21-07-004, § 388-447-0130, filed 3/4/21, effective 4/4/21.]

AMENDATORY SECTION (Amending WSR 21-07-004, filed 3/4/21, effective 4/4/21)

**WAC 388-449-0230 What aged, blind, or disabled (ABD) program rules may the department implement during a state of emergency?** During a declared state of emergency, the department may implement the following rules to help mitigate impacts to clients:

(1) Postpone review of your ABD cash eligibility beyond the ~~((twenty-four))~~ 24 month period required in WAC 388-449-0150. The postponement of this review may occur retroactively to the date the governor declares the state of emergency.

(2) Accept a diagnosis of a medically determinable impairment from a "treating medical source" in subsection (2) of WAC 388-449-0010, or the predictive risk intelligence system (PRISM).

(3) Accept functional medical evidence beyond ~~((ninety))~~ 90 days of the date of application or ~~((forty-five))~~ 45 days before the month of disability review, or otherwise waive the requirement of WAC 388-449-0015 (3)(e) in its entirety.

(4) Suspend or waive eligibility review requirements detailed in WAC 388-434-0005 for the ABD program.

~~((5) Suspend or waive mid-certification review requirements detailed in WAC 388-418-0001 for the ABD program.))~~

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.09.530, 74.08A.100. WSR 21-07-004, § 388-449-0230, filed 3/4/21, effective 4/4/21.]

## WSR 22-13-180

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed June 22, 2022, 10:22 a.m., effective June 22, 2022, 10:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-945-010 Prescription labeling, records, and advertising—Minimum requirements. The pharmacy quality assurance commission (commission) is adopting emergency rules to reduce burdens on practitioners prescribing Schedule II substances during the coronavirus disease (COVID-19) outbreak. This adopted emergency rule will extend WSR 22-06-017 filed on February 22, 2022. This emergency rule was originally filed on April 21, 2020, under WSR 20-09-133. It was re-filed on July 10, 2020, after the commission's new chapter went into effect under WSR 20-15-058. This emergency rule will continue the existing emergency rule amending WAC 246-945-010 to increase the duration of time a practitioner has to deliver a signed prescription of a Schedule II substance to the pharmacy from seven days to 15 days when a prescription is dispensed in an emergency. It also defines what a "signed prescription" means and allows for a practitioner to accomplish this requirement through paper, electronic transmission, facsimile, photograph, or scanned copy. These alternative methodologies support patients, practitioners, and pharmacists' efforts to practice social distancing and to help mitigate communal spread.

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

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

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

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

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

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

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

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

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

Date Adopted: June 22, 2022.

Teri Ferreira, RPh  
Pharmacy Quality Assurance Chair

## OTS-2391.1

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

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

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

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

(a) Prescriber's name;

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

(c) Date of issuance;

(d) Drug name, strength, and quantity;

(e) Directions for use;

(f) Number of refills (if any);

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

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

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

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

(a) Patient's address;

(b) Dosage form;

(c) Prescriber's address;

(d) Prescriber's DEA registration number; and

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

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

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

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

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

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

(i) A paper prescription;

(ii) An electronic prescription;

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

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

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

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

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

**WSR 22-13-185**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

[Filed June 22, 2022, 11:27 a.m., effective June 23, 2022]

Effective Date of Rule: June 23, 2022.

Purpose: The department is extending the amendment of the rules listed below. Because of the ongoing COVID-19 public health emergency, on January 18, 2022, home and community services (HCS) temporarily suspended conducting ongoing assessments for HCS clients living in adult family homes, assisted living facilities, and enhanced services facilities. The intent of this suspension is to allow HCS staff to focus on conducting assessments for patients staying in hospitals to facilitate their discharge to long-term care facilities and improve the current surge capacity in hospitals. This is a subsequent emergency rule filing and suspends the regulatory requirement for these facilities to complete assessments for HCS clients while the HCS assessors are not available. The centers for medicare and medicaid services approved this flexibility for medicaid beneficiaries needing specific long-term care services and supports whose assessments meet the requirements under 42 C.F.R. 441.720.

Citation of Rules Affected by this Order: Amending WAC 388-76-10350, 388-78A-2100, and 388-107-0080.

Statutory Authority for Adoption: RCW 18.20.090, 70.97.230, and 70.128.040(1).

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 was put in place at a time when many hospitals in this state were at or over capacity, leading them to redirect patients who are needing emergency care and delaying procedures that are necessary but nonemergent. This put the health of all residents of Washington at risk if they were not able to get the care they needed at their local hospital. By temporarily suspending assessment requirements for residents living in adult family homes, assisted living facilities, and enhanced services facilities, HCS was able to focus personnel resources on assessing patients in hospitals, which facilitated admissions to long-term care facilities and increased the bed availability in hospitals. HCS is continuing to use the extended timelines in this rule to address hospital capacity surges as they arise, to focus on significant change assessments, and to bring outdated assessments into compliance with the timelines in rule. The department is beginning the permanent rule-making process and filed a CR-101 Preproposal under WSR 22-13-121.

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

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

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

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

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

Date Adopted: June 22, 2022.

Katherine I. Vasquez  
Rules Coordinator

## SHS-4914.2

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

**WAC 388-76-10350 Assessment—Updates required.** The adult family home must ensure each resident's assessment is reviewed and updated to document the resident's ongoing needs and preferences as follows:

(1) When there is a significant change in the resident's physical or mental condition;

(2) When the resident's negotiated care plan no longer reflects the resident's current status, needs, and preferences;

(3) At the resident's request or at the request of the resident's representative; or

(4) At least every (~~twelve~~) 12 months, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10350, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

**WAC 388-78A-2100 On-going assessments.** The assisted living facility must:

(1) Complete a full assessment addressing the elements set forth in WAC 388-78A-2090 for each resident at least annually, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency;

(2) Complete an assessment specifically focused on a resident's identified problems and related issues:

(a) Consistent with the resident's change of condition as specified in WAC 388-78A-2120;

(b) When the resident's negotiated service agreement no longer addresses the resident's current needs and preferences;

(c) When the resident has an injury requiring the intervention of a practitioner.



(3) Ensure the staff person performing the on-going assessments is qualified to perform them.

[Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2100, filed 6/18/13, effective 7/19/13. Statutory Authority: RCW 18.20.090. WSR 06-01-047, § 388-78A-2100, filed 12/15/05, effective 1/15/06. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-2100, filed 7/30/04, effective 9/1/04.]

AMENDATORY SECTION (Amending WSR 16-14-078, filed 7/1/16, effective 8/1/16)

**WAC 388-107-0080 Ongoing comprehensive assessments.** The enhanced services facility must:

(1) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070(~~(r)~~) on the following timelines:

(a) Upon a significant change in the resident's condition; or

(b) (~~(or)~~) At least every 180 days if there is no significant change in condition, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

(2) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

(a) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

(b) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and

(c) When the resident has an injury requiring the intervention of a practitioner(~~(r)~~).

(3) Review each resident's needs to evaluate discharge or transfer options when the resident:

(a) No longer needs the level of behavioral support provided by the facility; or

(b) Expresses the desire to move to a different type of community based setting(~~(r)~~).

(4) Ensure that the person-centered service planning team discusses all available placement options; and

(5) Ensure the staff person performing the ongoing assessments is a qualified assessor.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0080, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0080, filed 9/12/14, effective 10/13/14.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.