

**WSR 23-16-033**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed July 21, 2023, 10:47 a.m., effective July 23, 2023]

Effective Date of Rule: July 23, 2023.

Purpose: The department is amending sections of chapters 388-71, 388-112A, and 388-115 WAC in response to, and in compliance with, E2SHB 1694 passed during the 2023 legislative session. Changes included the definition of "date of hire," clarification on when the date of hire may be reset, and additional family relationships related to long-term care worker training and continuing education requirements. Changes related to numerical representation, consistency, and inclusive language are also included.

Citation of Rules Affected by this Order: New WAC 388-71-0838; and amending WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-112A-0130, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, and 388-115-05410.

Statutory Authority for Adoption: RCW 18.88B.010, 18.88B.021, 18.88B.041, 74.08.090, 74.39A.076, and 74.39A.341.

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

Reasons for this Finding: Emergency rules are necessary because there is insufficient time to put permanent rules in place before the changes in law go into effect on July 23, 2023. Permanent rules are also in 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 16, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 21, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-4990.4**

AMENDATORY SECTION (Amending WSR 22-19-048, filed 9/15/22, effective 10/16/22)

**WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers?** The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers, including criteria for those providers working limited hours for one person, caring only for one's child, ~~((or))~~ parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, ~~((and))~~ providing respite services ~~((only))~~, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. <u>For NA-C and those with special education training 12 hours is required for each year worked in long-term care.</u>	<del>((Not required.))</del> Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839.
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of <del>((his or her))</del> hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	<u>12 hours is required for each year worked in long-term care</u> <del>((Required. 12 hours))</del> under WAC 388-71-0990 and 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(3) An individual provider or home care agency long-term care worker.	Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC 388-71-0990 and 388-71-0991.	Home care aide certification required under WAC 388-71-0975. Home care aide certification required under WAC 388-71-0975 within 200 days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).
(4) An individual provider who works limited hours for one person.	<del>((Contracted individual))</del> An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
<p><del>[(5)]</del> An individual who provides <del>((only))</del> respite services and works 300 hours or less in any calendar year.</p>	<p>(a) An individual providing <del>((only))</del> respite care who <del>((and))</del> works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection <del>((7))</del> (6) of this section.                      (b) Individual providing <del>((only))</del> respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. <del>((Seven))</del> <u>Nine</u> hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for <del>((his or her))</del> <u>the provider's biological, step, or adoptive adult child.</u></p>	<p>An individual providing care only for <del>((his or her))</del> <u>the provider's adult child that receives services through the developmental disabilities administration and not exempt under subsection (1) or (2) of this section.</u></p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(7) An individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive child, or parent.	An individual providing care <b>only</b> to <del>(his or her)</del> the individual's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	<del>(Required for an)</del> <u>12 hours is required for each year worked in long-term care for an individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive <del>(child or)</del> parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive child under WAC 388-71-1001.</u>	Not required.
(8) An individual provider caring only for the provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.	An individual providing care only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(9) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.	A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

**WAC 388-71-0836 What definitions apply to the long-term care worker training requirements?** The following definitions apply to the long-term care worker training requirements:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, medication assistance, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Care team"** means the client and everyone involved in (~~his or her~~) the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the client's well-being. However, the client directs the care plan.

(3) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed and may only be used when basic training is not required.

(4) **"Client"** means an individual receiving in-home services.

(5) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing training in a required topic area. Learning objectives are associated with each competency.

(6) **"Competency testing"** means evaluating a student to determine if (~~he or she~~) the student can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training, and the specialty and expanded specialty trainings. Training programs may integrate competency testing within (~~their~~) each program's approved curricula.

(7) **"Core basic training"** means the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(8) **"Date of hire"** for determining time frames related to training and certification, means the (~~date of hire as described in chapter 246-980 WAC~~) first day the long-term care worker is employed by any employer.

(9) **"DDA"** refers to the developmental disabilities administration.

(10) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes client care workers).

(11) **"Department"** or **"DSHS"** means the department of social and health services.

(12) **"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements can include new student materials, videos or DVDs, online materials, and additional student activities.

(13) **"Expanded specialty training"** means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(14) **"Guardian"** means an individual as defined in chapter 11.88 RCW.

(15) **"Home care aide"** or **"certified home care aide"** means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

(16) **"Hybrid"** means a combination of online training and in-person, remote or virtual classroom instruction.

(17) **"Individual provider"** or **"IP"** means a person (~~who has contracted with the department~~) as defined in RCW 74.39A.240, and limited to individual providers employed by the consumer directed employer to provide personal care or respite care services to persons with functional disabilities under a medicaid state plan program, such as the medicaid personal care or community first choice programs, ((or)) under a federal medicaid waiver program, or through the veteran directed home care (VDHC) program.

(18) **"Learning objectives"** means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

(19) **"Long-term care worker"** means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services, or through the veteran directed home care (VDHC) program.

(20) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(21) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living that are provided to the client.

(22) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(23) **"70-hour home care aide training"** means the 70 hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(24) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

(25) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum. Training entities may only deliver approved curriculum.

(26) **"Training partnership"** means a joint partnership or trust that includes the office of the governor, and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(27) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0837 How does DSHS determine a long-term care worker's date of hire?** (1) The department determines a long-term care worker's date of hire according to ~~((chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. ~~((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.))~~ A long-term care worker shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended, including a worker who is not currently certified or eligible to reactivate an expired credential.

(3) This section does not apply to background check requirements under this chapter.



NEW SECTION

**WAC 388-71-0838 When and how may a long-term care worker be eligible to have the date of hire reset?** (1) An individual or agency provider who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, may be eligible to have the date of hire reset in accordance with this section.

(2) A long-term care worker shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended, including a worker who is not currently certified or eligible to reactivate an expired credential.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0839 Which long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour basic training requirements?** The following long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour (~~home care aide~~) basic training requirement:

(1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;

(2) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of hire, and was employed as a long-term care worker at some point between January 1, 2011, and January 6, 2012;

(3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;

(4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within 120 days of the date of hire and the department of health has issued a nursing assistant certified credential within 200 days of the date of hire;

(5) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;

(6) An individual with special education training who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0875 Who must complete the 70-hour basic training and by when?** Unless exempt from training in WAC 388-71-0839(1) through (7), all long-term care workers must complete core and population specific competencies within 120 days of the date of hire as described in (~~chapter 246-980~~) WAC 388-71-0837 and 388-71-0838.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0880 Who must take the (~~(thirty)~~) 30-hour basic training and by when must it be completed? Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), the following individuals must take the (~~(thirty)~~) 30-hour basic training under WAC 388-71-0885 within 120 days of the date of hire as described in WAC 388-71-0837 and 388-71-0838:**

(1) An individual provider who only cares for that provider's:  
 (~~((i))~~) (a) (~~(Cares for his or her)~~) biological, step, or adoptive child, or parent; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(2) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs; or

(~~((ii))~~) (3) (~~(Provides)~~) A long-term care worker who provides no more than (~~(twenty)~~) 20 hours of nonrespite care for one person who is not the individual provider's:

(a) biological, step, or adoptive child, or parent(~~(-)~~); or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(~~((2) An individual who provides only respite services to clients not covered under title 71A RCW, works three hundred hours or less in any calendar year and is not exempt from basic training under WAC 388-71-0839.)~~)

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0888 When do the (~~(seventy)~~) 70-hour basic training and certification requirements apply to an individual whose required basic training was previously less than (~~(seventy)~~) 70 hours? (1) The following individual providers (~~(eligible for limited training under WAC 388-71-0880 and 388-71-0893, who begin to work for a second client who is not)~~) must complete 70 hours of basic training and become a certified home care aide under WAC 388-71-0523:**

(a) Individual providers who previously provided no more than 20 hours of nonrespite care in any calendar month for one person who is not the provider's:

(i) (~~(their)~~) biological, step, or adoptive child or parent(~~(r)~~);  
or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(A) who continue to work for one unrelated client whose authorized monthly hours fluctuate above 20 hours per month; or

(B) who begin to work for a second client.

(b) Individual providers who provide respite services and worked more than 300 respite hours in any calendar year;

(c) Individual providers who begin working for an unrelated client who previously only provided personal care to the provider's:

- (i) biological, step, or adoptive child, or parent; or
- (ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- (iii) spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

~~((continue to work for one client whose authorized monthly hours fluctuate above twenty hours per month must:~~

- ~~(a) Complete the seventy hours of basic training; and~~
- ~~(b) Become a certified home care aide under WAC 388-71-095.)~~

(2) When an IP described in subsection (1) of this section is required to complete the 70-hour basic training and become a certified home care aide, the IP will:

(a) Have 120 days from the date of the change to complete the 70-hour basic training and 200 days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

~~((2)) (3) ((Individual providers who provide only respite services and worked more than three hundred hours in any calendar year must complete the seventy hours of basic training and become a certified home care aide.)) For the purpose of this section, the date of the change means the date on which the IP:~~

(a) Began working for a client that is not the individual's:

- (i) biological, step, or adoptive child, or parent; or
- (ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- (iii) spouse or registered domestic partner receiving approved services funded through the United States department of veterans affairs home and community-based programs.

(b) Exceeded 20 hours of work in one month; or

(c) Exceeded 300 respite hours in one calendar year.

~~((3)) (4) ((Individual providers who previously only provided personal care to their biological, step, or adoptive child or parent through DDA or HCS who begin working for an unrelated client must complete the seventy hour basic training and become a certified home care aide.)) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:~~

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for more than one unrelated client; or

(c) The individual works 300 or fewer respite hours in a calendar year.

~~((4)) (5) ((When an IP described in subsections (1), (2), or (3) of this section is required to complete the seventy hour basic training and become a certified home care aide, the IP will:~~

(a) Have one hundred twenty days from the date of the change to complete the seventy hour basic training and two hundred days from the date of the change to become certified; and

~~(b) Be required to complete continuing education under WAC 388-71-0990.)~~ The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) biological, step, or adoptive parent, or adult child,  
(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans affairs home and community-based programs.

~~((5) For the purpose of this section, the date of the change means the date on which the IP:~~

~~(a) Began working for a client that is not his or her biological, step or adoptive child or parent;~~

~~(b) Exceeded twenty hours of work in one month; or~~

~~(c) Exceeded more than three hundred respite hours in one calendar year.~~

~~(6) If an IP is required to or chooses to become a certified home care aide and completes the seventy hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain his or her credential and complete continuing education requirements even if:~~

~~(a) The monthly authorized hours are later reduced to twenty or fewer hours;~~

~~(b) He or she no longer works for a second unrelated client; or~~

~~(c) The individual works less than three hundred respite hours in a calendar year.~~

~~(7) The training and certification requirements for an individual that met the above criteria in subsection (6) does not apply if the individual returns to work only for his or her biological, step, or adoptive parent or adult child.)~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0893 Who must take the nine-hour basic training and by when must it be completed?** (1) Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), an individual provider must take orientation and safety training and nine hours of training within 120 days of the date of hire as described in WAC 388-71-0837 and 388-71-0838 if ~~((he or she))~~ the provider meets the following criteria:

(a) Provides ~~((only))~~ respite services for individuals with developmental disabilities receiving services under title 71A RCW; and

(b) Works ~~((three hundred))~~ 300 hours or less of respite in any calendar year.

(2) The individual provider must complete the orientation and safety training before providing care.

(3) The training partnership identified in RCW 74.39A.360 must offer at least ~~((twelve))~~ 12 of the ~~((fourteen))~~ 14 total hours online and five of these online hours must be individually selected from elective courses.

(4) An individual must complete the nine hours basic training required under this section within ~~((one hundred twenty))~~ 120 days of the long-term care worker's date of hire.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0975 Who is required to obtain certification as a home care aide, and by when?** In order to be authorized to provide department paid in-home services, all long-term care workers must obtain home care aide certification as provided in chapter 246-980 WAC unless exempt for the 70-hour basic training as described in WAC 388-71-0875.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status?** (1) If an individual is required to or chooses to become a certified home care aide and completes the ~~((seventy))~~ 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain ~~((his or her))~~ the credential and complete continuing education requirements even if:

- (a) The monthly authorized hours are later reduced to ~~((twenty))~~ 20 or fewer hours;
- (b) ~~((He or she))~~ The individual no longer works for a second unrelated client; or
- (c) The individual works 300 ~~((less than three hundred))~~ respite hours or less in a calendar year.

(2) The training and certification requirements for an individual that met the above criteria in subsection (1) of this section does not apply when the individual returns to work only for ~~((his or her))~~ the individual's:

- (a) biological, step, or adoptive parent, or adult child((-)); or
- (b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or
- (c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0980 May a home care agency or client employ a long-term care worker who has not completed the 70-hour basic training or certification requirements?** (1) If an individual has previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, and ~~((74.39A.096))~~ 74.39A.076, and this chapter, a home care agency or client must not employ the individual to work as a long-term care

worker until the individual has completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset according to (~~chapter 246-980~~) WAC 388-71-0838.

(3) Unless exempt from the 70-hour basic training as describe in WAC 388-71-0875. Individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the 70-hour home care aide basic training and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit a new application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-1001 Which long-term care workers are exempt from the continuing education requirement?** Continuing education is not required for any of the following:

(1) Individual providers caring only for the provider's:

(a) (~~their~~) biological, step, or adoptive child; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(2) Individual providers that:

(a) Provide (~~care to only one person and provide~~) no more than 20 hours of nonrespite care in any calendar month to only one person who is not the provider's: (~~or~~)

(i) biological, step, or adoptive child; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(b) (~~Individual providers who only~~) Provide respite services and work 300 hours or less of respite in any calendar year;

(3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and

(4) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

**WAC 388-112A-0010 What definitions apply to this chapter?** The following definitions apply to this chapter:

(1) "**Activities of daily living**" means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Adult family home training network"** means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.026 with the capacity to provide training, workforce development, and other services to adult family homes.

(3) **"Applicant"** means:

(a) An individual who is applying for an adult family home license;

(b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or

(c) An individual who is applying for an enhanced services facility license.

(4) **"Capable caregiving training"** means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements under RCW 18.20.270 and RCW 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed in both topics, may be completed for continuing education credits.

(5) **"Care team"** includes the resident and everyone involved in ~~((their))~~ the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.

(6) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed.

(7) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

(8) **"Competency testing"** including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.

(9) **"Core basic training"** is the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(10) **"Date of hire"** for determining time frames related to training and certification ~~((r))~~ means ~~((date of hire according to chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.

(11) **"DDA"** means the developmental disabilities administration.

(12) **"Designee"** means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.

(13) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).

(14) "**Direct supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.

(15) "**DSHS**" or "**department**" means the department of social and health services.

(16) "**Enhancement**" means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

(17) "**Entity representative**" means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

(18) "**Expanded specialty training**" means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(19) "**Guardian**" means an individual as defined in chapter ~~((11.88))~~ 13.36 RCW.

(20) "**Home**" means adult family homes, enhanced services facilities, and assisted living facilities.

(21) "**Home care aide certified**" or "**home care aide**" means a person who obtained and maintains a home care aide certification through the department of health.

(22) "**Hybrid**" means a combination of online training and in-person, remote, or virtual classroom instruction.

(23) "**Indirect supervision**" means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

(24) "**Learning objectives**" means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.

(25) "**Long-term care worker**" means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies:  
Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20



RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(26) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on DSHS website at <https://bit.ly/dshs-online-standards>.

(27) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

(28) **"Provider"** means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

(29) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(30) **"Renewal period"** means the certification renewal period as defined in WAC 246-12-010.

(31) **"Resident"** means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

(32) **"Resident manager"** means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

(33) **"Routine interaction"** means regular contact with residents.

(34) **"70-hour home care aide basic training"** means the 70-hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(35) **"Special needs"** means a resident has dementia consistent with WAC 388-78A-2510 for assisted living or WAC 388-76-10000 for adult family homes; mental illness consistent with WAC 388-78A-2500 for assisted living or WAC 388-76-10000 for adult family homes; or developmental disabilities consistent with WAC 388-78A-2490 for assisted living or WAC 388-76-10000 for adult family homes.

(36) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, ((WAC)) 388-112A-0440, or ((WAC)) 388-112A-0450.

(37) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

(38) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0110 May a home employ a long-term care worker who has not completed the 70-hour home care aide training or certification requirements?** (1) ~~((If an individual previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, 74.39A.076, and this chapter, an adult family home, enhanced services facility, or assisted living facility must not employ the individual to work as a long-term care worker until the individual has completed the required training or certification unless the date of hire has been reset as described under subsection (2) of this section.~~

~~(2) The original date of hire may be reset according to chapter 246-980 WAC.)) A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.~~

~~((3)) (2) Individuals who meet the criteria in subsection ((2)) (1) of this section are allowed a new 120 days to complete the orientation, safety, and 70-hour home care aide basic trainings and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.~~

~~((4)) (3) Individuals who meet the criteria in subsection ((2)) (1) of this section must submit ((a new)) an application and fee to the department of health.~~

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0115 How does DSHS determine a long-term care worker's date of hire?** (1) The department determines a long-term care worker's date of hire according to ~~((chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. ~~((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-112A-0110))~~ A long-term care worker shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended, including a worker who is not currently certified or eligible to reactivate an expired credential.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0130 When and how may a long-term care worker be eligible to reset date of hire?** (1) An individual who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, may be eligible to have the date of hire reset in accordance with this section (~~and chapter 246-980 WAC~~)).

~~((1) An individual who is eligible to reset the date of hire under chapter 246-980 WAC must submit a new application and fee to the department of health in accordance with WAC 388-112A-0110, and adhere to the training or certification requirements under this chapter.))~~

~~((2) An individual who is not eligible to reset the date of hire as provided in chapter 246-980 WAC must not be paid to provide personal care assistance until they complete required training and become certified as a long-term care worker.))~~

(2) A long-term care worker shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended, including a worker who is not currently certified or eligible to reactivate an expired credential.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0503 What definitions apply to WAC 388-115-0500 through 388-115-05640?** (1) "Area agencies on aging (AAA)" means a contracted entity that aging and long-term support administration (AL TSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs, and to provide case management services and supports to individuals 18 and older who receive medicaid-funded LTC in ~~((their))~~ the individual's own ~~((homes))~~ home.

(2) "Applicant" means a person who is in the process of becoming an in-home long-term care worker.

(3) "Negative actions" are listed in WAC 388-113-0030.

(4) "Background check" means a name and date of birth check or a fingerprint-based background check, or both.

(5) "Background check result" is defined in WAC 388-113-0101.

(6) "Background check central unit(( )) (BCCU)" means the DSHS entity responsible for conducting background checks for the department.

(7) "Character, competence, and suitability determination (CC&S)" is defined in WAC 388-113-0050.

(8) "Client" means an individual receiving medicaid~~(( ))~~ or veterans administration funded in-home long term services from the department.

(9) "Consumer directed employer (CDE)" is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout ~~((this))~~ chapter 74.39A RCW and include:

((1)) (a) Coordination with the consumer, who is the individual provider's managing employer;

((2)) (b) Withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers;

((3)) (c) Verifying an individual provider's qualifications; and

((4)) (d) Providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

(10) "Date of hire" for determining time frames related to training and certification means the first day the long-term care worker is employed by any employer.

(11) "Department" means the department of social and health services (DSHS).

(12) "Fingerprint-based background check" means an in-state criminal history records check through the Washington state patrol and a national criminal history records check through the Federal Bureau of Investigation.

(13) "Individual provider (IP)" as defined in RCW 74.39A.240 limited to individual providers employed by the consumer directed employer.

(14) "Managing employer" means a consumer who employs one or more individual providers and whose responsibilities include:

((1)) (a) Choosing potential individual providers and referring them to the consumer directed employer;

((2)) (b) Selecting an individual provider(s);

((3)) (c) Overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care; and

((4)) (d) Dismissing the individual provider when desired.

(15) "Name and date of birth check" is a search, conducted by the background check central unit (BCCU), of Washington state check criminal history and negative action records using the applicant's name and date of birth.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0505 What is the client's role as managing employer of an individual provider?** The client, or ~~(theirs)~~ the client's representative, is the managing employer and:

(1) Has the primary responsibility to select, dismiss, assign hours, and supervise the work of one or more individual providers; and

(2) May receive assistance from the consumer directed employer or other resources in identifying potential providers.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0520 What are the training requirements for an individual provider?** An individual hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836

through 388-71-1006. (~~These training requirements also apply to individual providers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work. These training requirements and certification if required must be met prior to reinstating these individuals to work.~~)

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0523 What are the training and certification requirements for individual providers?** The following chart provides a summary of the training and certification requirements for individual providers, including criteria for those providers working limited hours for one person, caring only for one's child, ~~((or))~~ parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, ((and)) providing respite services ~~((only))~~, or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education <del>((CE))</del>	Required credential
(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041(1)(a)(i)(A).	ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required <del>((twelve))</del> <u>12</u> hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and <u>those with special education training, 12 hours is required for each year worked in long-term care.</u>	<del>((Not required.))</del> Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839.

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(2) An individual provider with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on ((his or her)) the worker's date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	((Required: <del>Twelve</del> ) <u>12</u> hours <u>is</u> required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.
(3) An individual provider.	Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836((; )) and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((Seventy)) <u>70</u> hours under WAC 388-71-0870 and 388-71-0875.	Required. ((Twelve)) <u>12</u> hours under WAC 388-71-0990 and 388-71-0991.	Home care aide certification required under WAC 388-71-0975 within ((two hundred)) <u>200</u> days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC ((246-980-065)) <u>246-980-040</u> ).
(4) An individual provider who works limited hours for one person.	<u>An individual provider employed by the consumer directed employer providing ((twenty)) <u>20</u> hours or less of nonrespite care for one person per calendar month((;)) and does not meet the criteria in subsection (1) or (2) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((Thirty)) <u>30</u> hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
<p>(5) An individual who provides <del>((only))</del> respite services and works <del>((three hundred))</del> 300 hours or less in any calendar year.</p>	<p>(a) <u>An individual providing <del>((only))</del> respite care and works no more than <del>((three hundred))</del> 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section.</u>                      (b) <u>An individual providing <del>((only))</del> respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working <del>((three hundred))</del> 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</u></p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. <del>((Thirty))</del> <u>Nine</u> hours under WAC <del>((388-71-0880))</del> <u>388-71-0890.</u></p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for <del>((his or her))</del> <u>the provider's biological, step, or adoptive adult child.</u></p>	<p><u>An individual providing care only for <del>((his or her))</del> the provider's adult child that receives services through the developmental disabilities administration and not exempt under <u>subsection (1) or (2) of this section.</u></u></p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(7) An individual provider caring only for <del>((his or her))</del> the provider's biological, step, or adoptive child, or parent.	<u>An individual providing care only to <del>((his or her))</del> the provider's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Thirty))</del> 30 hours under WAC 388-71-0880.	<u>12 hours is required for each year worked in long-term care for an individual provider caring only for <del>((his or her))</del> the individual's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for <del>((his or her))</del> the individual's biological, step, or adoptive child under WAC 388-71-1001.</u>	Not required.
(8) <u>An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.</u>	<u>An individual providing care only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(9) <u>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.</u>	<u>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.



AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0540 When will the consumer directed employer (CDE) reject your selected individual provider?** (1) The CDE will reject an individual provider who:

(a) Is the client's spouse, except in the case of an individual provider for a chore services client or when the client is receiving services under the veteran directed home care program;

(b) Is the natural, step, or adoptive parent of a minor client aged (~~seventeen~~) 17 or younger;

(c) Is the foster parent providing personal care or skills acquisition training to a child residing in (~~the~~) the individual's licensed foster home; or

(d) Does not meet the qualifications under WAC 388-115-0510.

(2) The CDE will also reject an individual provider when the CDE believes that the individual will be unable to appropriately meet the care needs of the consumer, including health and safety.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-05410 What are the client's rights if the consumer directed employer rejects (~~their~~) the selection of a person to serve as (~~their~~) the client's individual provider or discontinues**

**(~~their~~) the current individual provider's assignment?** (1) The client may choose to receive services from a different individual provider or another qualified provider.

(2) The client has the right to dispute the decision under the consumer directed employer's dispute resolution process.

(3) The client does not have a right to a hearing under chapter 34.05 RCW.

**WSR 23-17-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-149—Filed August 3, 2023, 4:29 p.m., effective August 4, 2023]

Effective Date of Rule: August 4, 2023.

Purpose: The purpose of this emergency rule is to close recreational Chinook retention and lower the coho portion of the salmon daily limit for Catch Record Card Area 10.

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

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

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

Reasons for this Finding: This emergency rule is necessary to close Chinook retention and lower the hatchery coho portion of the daily limit in Catch Record Card Area 10.

The current estimate of Chinook sublegal encounters for the summer fishery is 9,471 of 7,748 total sublegal encounters (122 percent) agreed to in this year's list of agreed fisheries. Therefore, the Washington department of fish and wildlife will close the fishery to Chinook retention.

Additionally, the current estimate of coho catch for the month of July is 11,665. The preseason expected catch of coho in the month of July was 4,810, almost 250 percent above the expected catch. The retention limit for coho is being reduced to minimize impacts on coho stocks of concern.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 3, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000D Puget Sound salmon—Saltwater seasons and daily limits.** Effective August 4 through October 31, 2023, salmon rules for Catch Record Card Area 10 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 10, except; East Elliott Bay (waters of Elliott Bay east of a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island), Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier:**

Effective August 4 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

**(2) East Elliott Bay (waters of Elliott Bay east of a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island) except Seacrest Pier:**

Effective August 18 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

**WSR 23-17-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-150—Filed August 3, 2023, 4:37 p.m., effective August 3, 2023, 4:37 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule, WAC 220-340-52000K:

(1) Clarifies the pot limit for shrimp pot fisheries is specific to each gear type and allows a separate maximum 100 pot limit for spot shrimp pots and nonspot shrimp pots, respectively.

(2) Defines the first spot shrimp catch accounting period as being from May 8 to August 1, 2023, and allows 5,000 pounds of spot shrimp to be harvested per license for the first catch accounting period.

(3) Defines the second spot shrimp catch accounting period as being from August 2 to August 22, 2023, and allows 5,400 pounds of spot shrimp to be harvested per-license for the first and second catch accounting periods combined.

(4) Opens Marine Fish-Shellfish (MFSF) Catch Areas 26B-2, 26D, 23AC, and 23B to commercial spot shrimp harvest on August 4, 2023.

(5) Closes [Catch Area] 23AE on August 4, 2023, due to projected quota attainment.

(6) Defines the nonspot species complex.

(7) Opens nonspot shrimp quota areas; defines the nonspot shrimp catch accounting periods; sets per license catch limit of 1,500 pounds for catch period number 1 and 1,200 pounds for each subsequent catch period in Subregions 1A, 1B, and 1C and Region 2E; clarifies there is no weekly harvest limit in Regions 3 or 2W; and sets a 175-foot depth limit in Subregion 1A and MFSF Catch Area 23A.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000J; 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: August 3, 2023.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-520, effective 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 Harvest:

(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; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Open until further notice
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Closed
Region 2W	Open until further notice
Subarea 23A-E	Open through August 4, 2023
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Open August 4, 2023, until further notice
Subarea 23A-S and MSFS Catch Area 23D	Open until further notice
MFSF Catch Area 23C	Open until further notice
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Open until further notice
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Open August 4, 2023, until further notice
Region 5	Open until further notice
MFSF Catch Area 26D	Open August 4, 2023, until further notice
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 8, 2023, through one hour after official sunset on August 1, 2023.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 5,000 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period starts one hour before official sunrise on August 2, 2023, through one hour after official sunset on August 22, 2023.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to have exceeded 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) 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.

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

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

(3) Non-spot shrimp pot harvests:

(a) The non-spot shrimp species complex is defined as the following species of pandalid shrimp classified in WAC 220-320-010: Dock shrimp (*Pandalus danae*), Coonstripe shrimp (*Pandalus hypsinotus*), Humpty shrimp (*Pandalus goniurus*), Ocean pink shrimp (*Pandalus jordani*), pink shrimp (*Pandalus eous*), Side stripe shrimp (*Pandalus dispar*).

(b) 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; WAC 220-320-120)	Open Period
Subregion 1A	Open until further notice
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Open until further notice
Region 2W	Open until further notice
Region 3, not including Discovery Bay Shrimp District	Open until further notice
Discovery Bay Shrimp District	Open until further notice
Region 4	Closed
Region 5	Closed
Region 6	Closed

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

Period Number	Start Date	End Date
1	5/1/2023	5/16/2023
2	5/17/2023	5/30/2023
3	5/31/2023	6/13/2023
4	6/14/2023	6/27/2023

Period Number	Start Date	End Date
5	6/28/2023	7/11/2023
6	7/12/2023	7/25/2023
7	7/26/202	8/8/2023
8	8/9/2023	8/22/2023
9	8/23/202	9/5/2023
10	9/6/2023	9/19/2023
11	9/20/202	10/3/2023
12	10/4/2023	10/15/2023

(d) It is unlawful for the total harvest of non-spot shrimp per license to exceed 1,500 pounds during non-spot shrimp catch accounting period number 1 from subregions 1A, 1B, 1C, and Region 2E combined.

(e) It is unlawful for total harvest of non-spot shrimp to exceed 1,200 pounds per non-spot shrimp catch accounting period from subregions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 2 through 12.

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

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

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

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

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

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

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

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

**Reviser's note:** The spelling 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 Washington Administrative Code is repealed, effective immediately:

WAC 220-340-52000J Commercial shrimp pot fishery—Puget Sound. (23-139)

**WSR 23-17-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-132—Filed August 4, 2023, 2:40 p.m., effective August 9, 2023]

Effective Date of Rule: August 9, 2023.

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: Amending WAC 220-358-030.

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

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

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

Reasons for this Finding: This rule sets nontreaty commercial fisheries for fall 2023 in the mainstem and select areas. The 2023 nontreaty fall fisheries plan was developed in conjunction with the annual North of Falcon management process. Impacts to nonlocal stocks are expected to be minimal in off channel select areas. The fishery is consistent with the *United States v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of July 18, 2023. 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 *United States v. Oregon* Management Agreement.



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

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

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

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

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

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

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

Date Adopted: August 4, 2023.

Kelly Susewind  
Director

NEW SECTION

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

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

**(1) Mainstem:**

Open Dates	Open Days	Open Time	Open Duration
August 9 - August 10	Wednesday (night)	9:00 pm - 6:00 am	9 hrs
August 14 - August 15	Monday (night)	9:00 pm - 6:00 am	9 hrs
August 16 - August 17	Wednesday (night)	9:00 pm - 6:00 am	9 hrs
August 21 - August 22	Monday (night)	9:00 pm - 6:00 am	9 hrs
August 23 - August 24	Wednesday (night)	9:00 pm - 6:00 am	9 hrs
August 27 - August 28	Sunday (night)	9:00 pm - 6:00 am	9 hrs
August 29 - August 30	Tuesday (night)	9:00 pm - 6:00 am	9 hrs
August 31 - September 1	Thursday (night)	9:00 pm - 6:00 am	9 hrs

(a) **Area:** Zones 4-5. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse

on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries: Washougal and Sandy Rivers

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

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

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

Open Dates	Open Days	Open Time	Open Duration
August 28 - September 1	Monday, Thursday (night)	7:00 pm - 7:00 am	12 hrs
September 4 - October 31	Monday, Tuesday, Wednesday, Thursday (night)	4:00 pm - 10:00 am	18 hrs

(a) **Area:**

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

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

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

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

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

In the South Channel Select Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted. Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a

diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

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

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

Open Dates	Open Days	Open Time	Open Duration
August 28 - September 1	Monday, Thursday (night)	7:00 pm - 7:00 am	12 hrs
September 4 - October 31	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 10:00 am	16 hrs

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

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

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

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

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

Open Dates	Open Days	Open Time	Open Duration
September 4 - October 13	Monday, Tuesday, Wednesday, Thursday (night)	6:00 pm - 9:00 am	15 hrs
October 16 - October 26	Monday, Wednesday (night)	6:00 pm - 9:00 am	15 hrs

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

(b) **Gear:** Gillnets with a maximum mesh size restriction of 6-inches. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful

to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. Nets not specifically authorized for use may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

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

(5) **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.

(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.

**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 23-17-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-147—Filed August 4, 2023, 2:44 p.m., effective September 16, 2023]

Effective Date of Rule: September 16, 2023.

Purpose: The purpose of this emergency rule is to open retention of white sturgeon in Lake Roosevelt from September 16 through November 30, 2023.

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

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

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

Reasons for this Finding: This rule is necessary to open retention of white sturgeon in Lake Roosevelt. Hatchery programs rearing white sturgeon began in 2001 in British Columbia (BC) and 2004 in Washington. The number of individual juvenile sturgeon released has ranged from 2,000 - 12,000 per year from the 2001 to 2010 brood years (including both Washington and BC releases). Survival of hatchery-produced juvenile sturgeon was higher than anticipated, resulting in a surplus of hatchery-origin sturgeon now available for harvest from Lake Roosevelt. There is insufficient time to adopt permanent rules.

Permanent rule making is currently underway for sturgeon retention in Lake Roosevelt. This emergency rule is interim until permanent rules take effect.

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

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

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

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

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

Date Adopted: August 4, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000H Freshwater exceptions to statewide rules—Eastside.** Effective September 16 through November 30, 2023; the following provisions of WAC 220-312-050 regarding recreational sturgeon

seasons and harvest rules for Lake Roosevelt shall be as described below. All other provisions of WAC 220-312-050 not addressed herein, or unless otherwise amended, remain in effect:

Lake Roosevelt: From Grand Coulee Dam to the Canadian border (including the Spokane River from Highway 25 Bridge upstream to 400' below Little Falls Dam, Colville River upstream to Meyers Falls Dam and the Kettle River upstream to Barstow Bridge)

(a) Daily limit: 1 sturgeon; minimum fork length 53 inches, maximum fork length 63 inches.

(b) Annual Limit: 2 sturgeon.

(c) Anglers must cease fishing for the day after obtaining a daily limit. It is unlawful to fish for sturgeon after the annual limit has been retained.

(d) Anglers may fish for sturgeon with two poles with the purchase of a Two-pole endorsement.

(e) Night closure is in effect for sturgeon.

(f) All other statewide rules for white sturgeon apply.

**WSR 23-17-015**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-153—Filed August 4, 2023, 4:09 p.m., effective August 7, 2023]

Effective Date of Rule: August 7, 2023.

Purpose: Opens harvest of sea cucumber in all parts of District 5 except a designated closed area within a one nautical mile radius of Gig Harbor.

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

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

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

Reasons for this Finding: This emergency rule opens harvest of sea cucumber in all parts of District 5 except a designated closed area within a one nautical mile radius of Gig Harbor. The closed area is part of an agreement with comanagers in a signed harvest plan. Harvestable surpluses of sea cucumbers exist in the districts specified. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 4, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-73000J Sea cucumbers** Effective August 7, 2023, until further notice, or until this rule expires on December 2, 2023, pursuant to RCW 34.05.350, the following provisions of WAC 220-340-730 regarding Puget Sound commercial sea cucumber harvest and sales shall be described below. All other provisions of WAC 220-340-730 not addressed herein, and unless otherwise amended, remain in effect:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2-1, and 2-2 Monday through Sunday of each week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 except for all waters in Gig Harbor and adjacent waters within a one nautical mile radius of the Gig Harbor entrance, Monday through Sunday of each week.

(3) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 1,500 pounds per license.

(4) The maximum cumulative landing of sea cucumbers for the period of August 1, 2023, to November 5, 2023 is 9,000 pounds per license from all Puget Sound commercial sea cucumber districts combined.

#### REPEALER

The following section of Washington Administrative Code is repealed, effective August 7, 2023:

WAC 220-340-73000I Sea cucumbers (23-144)



**WSR 23-17-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-151—Filed August 4, 2023, 4:16 p.m., effective August 4, 2023, 4:16 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule is to correct/clarify West Elliott Bay salmon seasons and allow chum retention in Catch Record Card Area 10 during the month of October as agreed [to] during the 2023 North of Falcon season setting process and listed in the list of agreed-to fisheries (LOAF).

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000D; and amending WAC 220-313-060.

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

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

Reasons for this Finding: This emergency rule is necessary correct WSR 23-17-006, filed August 3, 2023. WSR 23-17-006 inadvertently opened salmon fishing in West Elliott Bay, which should remain closed as agreed to in LOAF. This correction makes clear that West Elliott Bay is closed until August 18, 2023, when it will open salmon seasons with a reduced daily coho limit. This rule also carries forward salmon rules set in WSR 23-17-006 for Catch Record Card Area 10. Those rules close Chinook retention and lower the hatchery coho portion of the daily limit.

The current estimate of Chinook sublegal encounters for the summer fishery is 9,471 of 7,748 total sublegal encounters (122 percent) agreed to in this year's LOAF. Therefore, the Washington fish and wildlife department will close the fishery to Chinook retention.

Additionally, the current estimate of coho catch for the month of July is 11,665. The preseason expected catch of coho in the month of July was 4,810, almost 250 percent above the expected catch. The retention limit for coho is being reduced to minimize impacts on coho stocks of concern.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 4, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000E Puget Sound salmon—Saltwater seasons and daily limits.** Effective immediately, through October 31, 2023, salmon rules for Catch Record Card Area 10 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 10, except; West Elliott Bay (waters of Elliott Bay east of a line from West Point to Alki Point and east of a line from Duwamish Head to Pier 91), East Elliott Bay (waters of Elliott Bay east of a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island), Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier:**

(a) Effective immediately, through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(2) East Elliott Bay (waters of Elliott Bay east of a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island) except Seacrest Pier:**

(a) Effective August 18 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(3) West Elliott Bay (waters of Elliott Bay east of a line from West Point to Alki Point and west of a line from Duwamish Head to Pier 91):**

(a) Effective August 18 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

REPEALER

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

WAC 220-313-06000D Puget Sound salmon—Saltwater seasons and daily limits. (23-149)

**WSR 23-17-022**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-154—Filed August 7, 2023, 4:03 p.m., effective August 8, 2023]

Effective Date of Rule: August 8, 2023.

Purpose: The purpose of this emergency rule is to amend recreational shrimp rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000U; 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 rule opens the portion of Marine Area 6 outside the Discovery Bay Shrimp District for nonspot shrimp only with a maximum 175-foot depth restriction. This rule also maintains the previously announced opening of Marine Area 7 West and a portion of Marine Area 7 South to harvest of all shrimp (including spot shrimp) from August 7 - 14. It maintains the open nonspot shrimp fisheries in Marine Areas 7 East, 8-1, 8-2, 9, 11, and 13 with associated nonspot shrimp fishing depth restrictions. This regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and meet conservation objectives. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 7, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-07000V Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-070, effective August 8, 2023 until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Ta-

toosh 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 daily, 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 daily through October 15 for shrimp species other than spot shrimp with a 175-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.

(3) Marine Area 7 South: Only that portion of Marine Area 7 South that is west of a line projected due south from Point Colville on Lopez Island and east of a line projected due south from Cattle Point on San Juan Island, will open from 1 hour before official sunrise to 1 hour after official sunset on August 7 through August 14 for all shrimp species.

(4) Marine Area 7 West: Open from 1 hour before official sunrise to 1 hour after official sunset on August 7 through August 14 for all shrimp species.

(5) Marine Area 7 East: Open daily 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.

(6) Marine Areas 8-1 and 8-2: Open daily through October 15 for shrimp species other than spot shrimp with a 175-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 175 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(7) Marine Area 9: Open daily 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.

(8) Marine Area 11: Open daily 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.

(9) Marine Area 13: Open daily 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, effective August 8, 2023:

WAC 220-330-07000U Shrimp—Areas and seasons. (23-129)

**WSR 23-17-030**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-155—Filed August 8, 2023, 5:20 p.m., effective August 9, 2023]

Effective Date of Rule: August 9, 2023.

Purpose: The purpose of this emergency rule is to open salmon seasons in Catch Record Card Area [11] and to open the area surrounding the Dash Point Pier to food fish and shellfish harvest.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000Y; and amending WAC 220-313-060 and 220-311-020.

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: This emergency rule is necessary to open salmon seasons in Catch Record Card Area 11 and to open food fish and shellfish harvest in the area surrounding Dash Point Pier.

The Catch Record Card Area 11 summer fishery was closed on July 15 due to high sublegal encounters of Chinook salmon. The Washington department of fish and wildlife (WDFW) fishery managers have been working to assess the remaining impacts agreed to in this year's list of agreed fisheries (LOAF) to reopen for coho and pink opportunities with minimal Chinook impacts. Opening for shore-based fishing in August allows for opportunity to harvest coho and pink salmon, with negligible effect on Chinook, thus meeting conservation goals for this fishery. Nonretention Chinook impacts in September were built into the Area 11 fishery during preseason planning, allowing the area to reopen fishing salmon from a vessel in September.

The City of Tacoma has closed the Dash Point Pier due to structural concerns. Due to the pier being closed it is no longer necessary to close the surrounding waters as a measure to prevent gear conflicts between pier and boat or shore fishers. Opening the surrounding area will provide publicly accessible opportunity that would otherwise be lost.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 8, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000F Puget Sound salmon—Saltwater seasons and daily limits.** Effective August 9 through September 30, 2023, the following provisions of WAC 220-313-060 regarding salmon seasons for Catch Record Card Area 11, except year-round piers, shall be modified as described below. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

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

- (a) Effective August 9 through August 31:
  - (i) Salmon daily limit 2. Release Chinook and chum.
  - (ii) Angling for salmon from a floating device, other than a dock or pier that is attached to shore, is prohibited.
- (b) Effective September 1 through September 30: Salmon daily limit 2. Release Chinook and chum.

NEW SECTION

**WAC 220-311-02000C Puget Sound public fishing piers—Restricted fishing areas.** Effective August 9, 2023, until further notice, the following provisions of WAC 220-311-020 regarding fishing for food fish and shellfish within 100 yards of the Dash Point public fishing pier shall be as described below. All other provisions of WAC 220-211-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

It is permissible fish for and possess food fish and shellfish taken within 100 yards of the Dash Point public fishing pier. Food fish anglers and shellfish harvesters are subject to rules applicable to Catch Record Card Area 11.

**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 Washington Administrative Code is repealed, effective August 9, 2023:

WAC 220-313-06000Y Puget Sound salmon—Saltwater seasons and daily limits. (23-126)

## WSR 23-17-032

## EMERGENCY RULES

## DEPARTMENT OF AGRICULTURE

[Filed August 9, 2023, 9:06 a.m., effective August 9, 2023, 9:06 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order amends chapter 16-470 WAC, Quarantine—Agricultural pests, to expand the boundaries of the internal quarantine for Japanese beetle within Washington state. The quarantine prohibits the movement of regulated articles located inside the quarantine area from moving outside of it. The quarantine prevents potentially infested host material from being transported to other parts of the state, thereby limiting the spread of Japanese beetle and protecting noninfested areas from infestation.

Citation of Rules Affected by this Order: Amending WAC 16-470-105.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

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: Immediate amendment of the rule is necessary for the general welfare of the public. Japanese beetle (*Popillia japonica* Newman) is a highly invasive plant pest native to Japan. It has been known to cause severe damage to more than 300 species of ornamental and agricultural plants, including roses, grapes, and hops. Adult beetles damage plants by skeletonizing foliage and feeding on buds, flowers, and fruit. The larvae also damage the roots of plants, such as turf grass. Although this feeding does not always kill the plant, it weakens it and may reduce the plant's overall yield.

In 2021, the department caught 24,048 Japanese beetles in the current internal quarantine area. Throughout 2021 and 2022, the department took extensive measures to reduce the spread of the beetle, with an ultimate goal of eradicating it. Measures that have been taken include treating residential and public properties with pesticide, trapping, and establishing an internal quarantine. Despite these efforts, by the end of the 2022 trapping season, numerous Japanese beetles, which indicate a reproducing population, were caught outside of the currently established internal quarantine area. Due to this, immediate action is needed to expand the internal Japanese beetle quarantine to more accurately reflect the area of infestation in order to prevent the beetles from spreading into noninfested areas.

If Japanese beetle becomes permanently established throughout the state, it could severely threaten several of Washington's agricultural industries. The threat this pest poses is particularly concerning due to the area in which the detections have occurred. There are a number of farms and nurseries in close proximity to the detection sites growing plant species known to be targeted by Japanese beetle. Not only do these beetles pose a threat to the plants themselves but, if established, they have the potential to impact the availability of export markets for agricultural commodities grown in the area. Expanding the Japanese beetle internal quarantine will help prevent the spread of this invasive pest and protect Washington's agricultural industries, as well as maintain access to national and international markets.

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 0, Repealed 0.

Date Adopted: August 9, 2023.

Derek I. Sandison  
Director

## OTS-4226.1

AMENDATORY SECTION (Amending WSR 22-17-068, filed 8/15/22, effective 9/15/22)

**WAC 16-470-705 Areas under quarantine.** (1) Exterior: The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

(a) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

(i) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in WAC 16-470-715; and

(ii) Annual surveys are conducted in such counties and the results of these surveys are negative for Japanese beetle; and

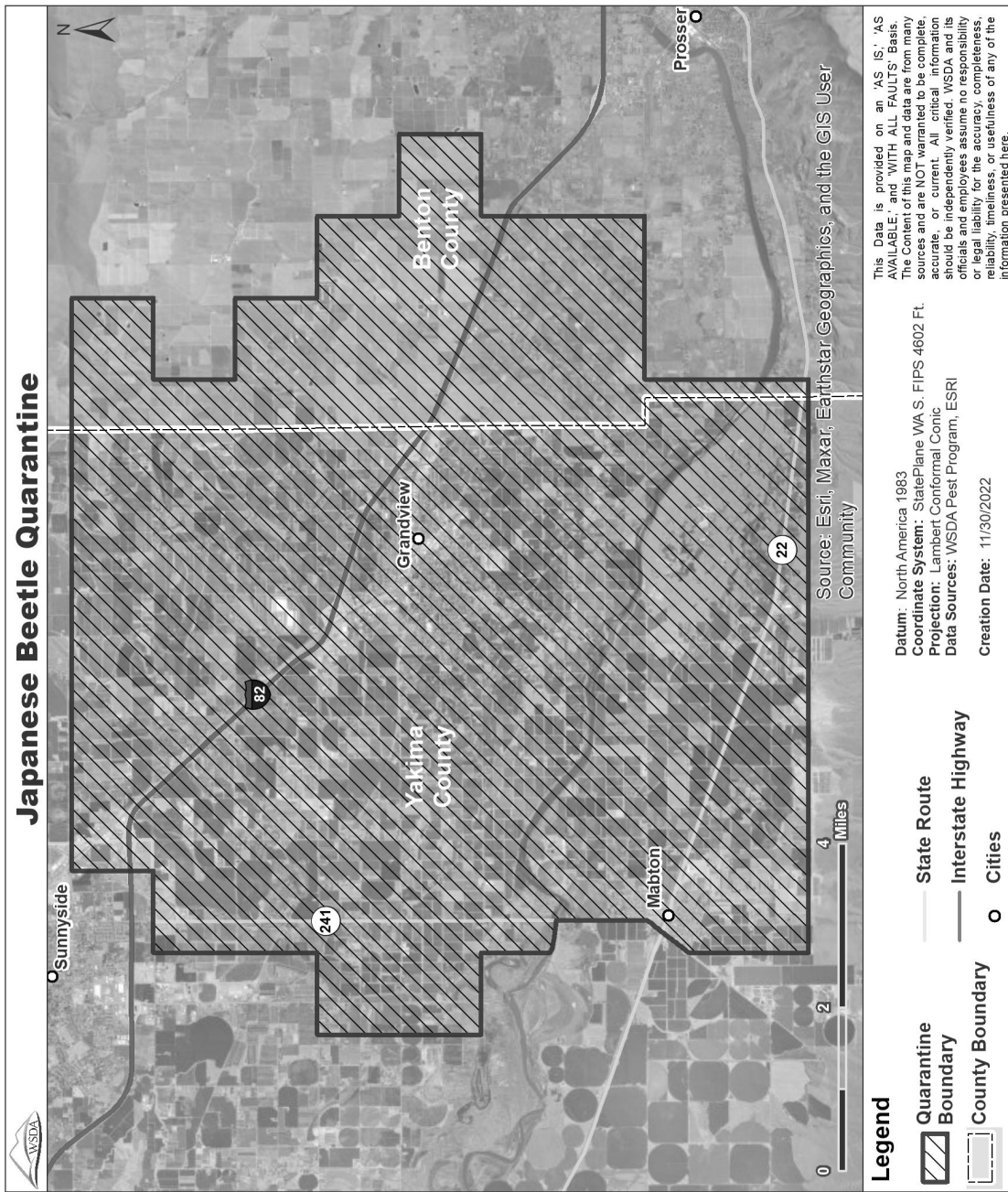
(iii) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

(b) A plant health official of any state may request exemption of one or more counties under this subsection. The request must be in writing, and it must state the area surveyed, the survey method, personnel conducting the survey, and dates of any previous Japanese beetle infestations in that county.

(2) Interior: Within the state of Washington, those areas where infestations of Japanese beetle exist are declared to be under quarantine. These areas include the portion of Yakima and Benton counties designated as follows: Beginning within Yakima County at latitude



~~N46°18'8" and longitude W120°0'26"; thence easterly ((across the Yakima-Benton County line to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°16'21" and longitude W119°51'40"; thence easterly to longitude W119°50'25"; thence southerly to latitude N46°13'44" and longitude W119°50'27"; thence westerly to latitude N46°13'44" and longitude W119°51'42"; thence southerly to latitude N46°12'00" and longitude W119°51'42"; thence westerly across the Yakima-Benton County line to latitude N46°12'3" and longitude W119°59'14"; thence northerly to latitude N46°14'39" and longitude W119°59'12"; thence westerly to longitude W120°0'28")) to latitude N46°18'8" and longitude W119°59'11"; thence northerly to latitude N46°19'0" and longitude W119°59'10"; thence easterly across the Yakima-Benton County line to latitude N46°18'57" and longitude W119°50'23"; thence southerly to latitude N46°18'5" and longitude W119°50'24"; thence westerly to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°17'13" and longitude W119°51'40"; thence easterly to latitude N46°17'13" and longitude W119°50'25"; thence southerly to latitude N46°16'21" and longitude W119°50'25"; thence easterly to latitude N46°16'20" and longitude W119°49'10"; thence southerly to latitude N46°15'28" and longitude W119°49'11"; thence easterly to latitude N46°15'28" and longitude W119°47'56"; thence southerly to latitude N46°14'35" and longitude W119°47'56"; thence westerly to latitude N46°14'36" and longitude W119°49'11"; thence southerly to latitude N46°12'52" and longitude W119°49'13"; thence westerly to latitude N46°12'53" and longitude W119°51'43"; thence southerly to latitude N46°11'8" and longitude W119°51'44"; thence westerly across the Yakima-Benton County line to latitude N46°11'11" and longitude W120°0'29"; thence northerly to the Yakama Nation Reservation boundary line; thence northerly and easterly, and turning westerly along the Yakama Nation Reservation boundary line to longitude W120°0'28"; thence northerly to latitude N46°14'39" and longitude W120°0'28"; thence westerly to latitude N46°14'40" and longitude W120°1'43"; thence northerly to latitude N46°16'24" and longitude W120°1'42"; thence easterly to latitude N46°16'24" and longitude W120°0'27"; thence northerly to the point of beginning.~~



**WSR 23-17-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-156—Filed August 9, 2023, 3:28 p.m., effective August 9, 2023, 3:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency WAC 220-340-52000L:

(1) Clarifies the pot limit for shrimp pot fisheries is specific to each gear type and allows a separate maximum 100 pot limit for spot shrimp pots and nonspot shrimp pots respectively.

(2) Defines the first spot shrimp catch accounting period as being from May 8 to August 1, 2023, and allows 5,000 pounds of spot shrimp to be harvested per license for the first catch accounting period.

(3) Defines the second spot shrimp catch accounting period as being from August 2 to August 22, 2023, and allows 5,400 pounds of spot shrimp to be harvested per license for the first and second catch accounting periods combined.

(4) Closes subarea 23AC and Marine Fish-Shellfish (MFSF) Catch Area 23B on August 12, 2023, due to projected quota attainment.

(5) Defines the nonspot species complex.

(6) Opens nonspot shrimp quota areas, defines the nonspot shrimp catch accounting periods, sets per-license catch limit of 1,500 pounds for catch period number 1 and 1,200 pounds for each subsequent catch period; in Subregions 1A, 1B, 1C, and Region 2E, clarifies there is no weekly harvest limit in Regions 3 or 2W; and sets a 175-foot depth limit in Subregion 1A and MFSF Catch Area 23A.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000K; 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 the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 9, 2023.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-520, effective 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 Harvest:

(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; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Open until further notice
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Closed
Region 2W	Open until further notice
Subarea 23A-E	Closed
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Open through August 12, 2023
Subarea 23A-S and MSFS Catch Area 23D	Open until further notice
MFSF Catch Area 23C	Open until further notice
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Open until further notice
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Open until further notice
Region 5	Open until further notice
MFSF Catch Area 26D	Open until further notice
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 8, 2023, through one hour after official sunset on August 1, 2023.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 5,000 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period starts one hour before official sunrise on August 2, 2023, through one hour after official sunset on August 22, 2023.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to have exceeded 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) 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.

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

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

(3) Non-spot shrimp pot harvests:

(a) The non-spot shrimp species complex is defined as the following species of pandalid shrimp classified in WAC 220-320-010: Dock shrimp (*Pandalus danae*), Coonstripe shrimp (*Pandalus hypsinotus*), Humpy shrimp (*Pandalus goniurus*), Ocean pink shrimp (*Pandalus jordani*), pink shrimp (*Pandalus eous*), Side stripe shrimp (*Pandalus dispar*).

(b) 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; WAC 220-320-120)	Open Period
Subregion 1A	Open until further notice
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Open until further notice
Region 2W	Open until further notice
Region 3, not including Discovery Bay Shrimp District	Open until further notice
Discovery Bay Shrimp District	Open until further notice
Region 4	Closed
Region 5	Closed
Region 6	Closed

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

Period Number	Start Date	End Date
1	5/1/2023	5/16/2023
2	5/17/2023	5/30/2023
3	5/31/2023	6/13/2023
4	6/14/2023	6/27/2023
5	6/28/2023	7/11/2023
6	7/12/2023	7/25/2023
7	7/26/202	8/8/2023

Period Number	Start Date	End Date
8	8/9/2023	8/22/2023
9	8/23/202	9/5/2023
10	9/6/2023	9/19/2023
11	9/20/202	10/3/2023
12	10/4/2023	10/15/2023

(d) It is unlawful for the total harvest of non-spot shrimp per license to exceed 1,500 pounds during non-spot shrimp catch accounting period number 1 from subregions 1A, 1B, 1C, and Region 2E combined.

(e) It is unlawful for total harvest of non-spot shrimp to exceed 1,200 pounds per non-spot shrimp catch accounting period from subregions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 2 through 12.

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

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

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

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

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

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

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

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

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000K Commercial shrimp pot fishery—Puget Sound. (23-150)

**WSR 23-17-046**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-157—Filed August 9, 2023, 4:43 p.m., effective August 10, 2023]

Effective Date of Rule: August 10, 2023.

Purpose: The purpose of this emergency rule is to implement a hook restriction to require anglers to use one single-point hook with a hook gap of 3/4 inch or less in the lower Samish River.

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

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

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

Reasons for this Finding: This rule is necessary to hook gap size restrictions in lower Samish River.

The hook gap restriction was proposed during the North of Falcon (NOF) season setting process, along with the stationary gear restriction. Both were adopted to the list of agreed fisheries, but the hook gap restriction was unintentionally omitted from the pamphlet. This action brings the 2023 Samish salmon fishery rules in alignment with what was adopted at NOF. Both actions were taken to address community and angler complaints about snagging Chinook using flossing techniques.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 9, 2023.

Kelly Susewind  
Director

[NEW SECTION]

**WAC 220-312-04000R Freshwater exceptions to statewide rules—Puget Sound.** Effective August 10 through September 13, 2023, provisions of WAC 220-312-040 regarding recreational gear rules for the Samish River shall be modified as described below. All other provisions of

WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

**Samish River (Skagit Co.), from the mouth (Bayview-Edison Rd.) to Thomas Rd. Bridge:**

(a) It is unlawful for anglers to use anything other than 1 single-point hook, with a hook gap of 3/4 inch or less measured from point to shank.

(b) All other permanent rules regarding fishing seasons and gear restrictions remain in place.



WSR 23-17-051  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 23-152—Filed August 10, 2023, 1:00 p.m., effective August 10, 2023, 1:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open salmon seasons in the Snohomish River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000P; 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 rule is necessary to open salmon seasons in the Snohomish River.

Preseason forecast of pink and coho salmon returns are sufficient to open the lower portion of the river two weeks early. In addition, there are sufficient Chinook impacts remaining in the season to allow this earlier opening targeting coho and pink salmon.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 10, 2023.

Kelly Susewind  
Director

[NEW SECTION]

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

(1) Effective immediately, until further notice, the following waters are closed to fishing for or possessing food fish or game fish:

(a) **Cherry Creek**, from mouth upstream

- (b) **Raging River**, from mouth upstream
- (c) **Skykomish River**, from mouth to confluence of North and South forks
- (d) **Skykomish River, North Fork**, from mouth upstream
- (e) **Skykomish River, South Fork**, from mouth upstream
- (f) **Snoqualmie River**, from mouth to Snoqualmie Falls
- (g) **Sultan River**, from mouth upstream
- (h) **Tolt River**, from mouth to confluence of North and South forks
- (i) **Wallace River**, from mouth to 200' upstream of water intake of salmon hatchery

**(2) Snohomish River:**

(a) From the mouth to the railroad (RR) bridge immediately upstream of WDFW's Lincoln Ave Snohomish Boat Launch:

(i) Effective immediately through August 31, 2023: Closed to fishing for food fish or game fish.

(ii) Effective September 1 through October 15: Salmon: Daily limit 4 including no more than 2 coho. Release Chinook and chum. Bait is allowed, except use of fish eggs is prohibited. Single point barbless hooks required.

(b) From the RR bridge immediately upstream of WDFW's Lincoln Ave Snohomish Boat Launch to the confluence of Skykomish and Snoqualmie rivers:

(i) Effective immediately through September 15, 2023: Closed to fishing for food fish or game fish.

(ii) Effective September 16 through October 15, 2023: Salmon: Daily limit 4 including no more than 2 coho. Release Chinook and chum. Bait is allowed, except use of fish eggs is prohibited. Single point barbless hooks required.

REPEALER

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

WAC 220-312-04000P Freshwater exceptions to statewide rules—Puget Sound. (23-148)

**WSR 23-17-052**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-158—Filed August 10, 2023, 1:02 p.m., effective August 18, 2023]

Effective Date of Rule: August 18, 2023.

Purpose: The purpose of this emergency rule is to open fall Chinook seasons in portions of the Snake River.

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

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

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

Reasons for this Finding: The 2023 Columbia River forecasted return of upriver bright adults is 272,400, with a significant portion of these fish expected to return to the Snake River. This forecast is large enough to allow for Chinook harvest in the Snake River. The Upriver Bright stock primarily returns to the Hanford Reach and Snake River sections of the Columbia River and the *US v. OR* Management Agreement reaches only to the confluence of the Snake River. There is no Endangered Species Act component in this section of the Columbia River, and Washington has its own fishery management and evaluation plan with Idaho for the Snake River itself. Because of these factors, the opening of this fishery by emergency rule is needed to maintain concurrency with Idaho's salmon rules and season openings for the Snake River.

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

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

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

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

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

Date Adopted: August 10, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000I Freshwater exceptions to statewide rules—Eastside.** Effective August 18, 2023, until further notice, the following provisions of WAC 220-312-050, regarding salmon seasons in the

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

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

Salmon: Effective September 7, 2023, until further notice:

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

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

(c) Barbless hooks required.

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

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

Salmon: Effective August 18 through October 31, 2023:

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

(b) Barbless hooks required.

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

**WSR 23-17-053**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-160—Filed August 10, 2023, 1:18 p.m., effective August 11, 2023]

Effective Date of Rule: August 11, 2023.

Purpose: The purpose of this emergency rule is to open salmon seasons in Catch Record Card Area 10.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000E; and amending WAC 220-313-060.

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

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

Reasons for this Finding: The Marine Area 10 summer Chinook fishery was closed on August 4 after estimates of sublegal encounters reached 122 percent (9,471 of 7,748) of the limit agreed to in this year's list of agreed fisheries. Additional test fishing during the first week of August leading up to the closure indicated there was a push of legal-sized marked fish that moved into the area, which dropped the estimate of sublegal encounters to 75 percent. This provides room for additional days of Chinook retention in Marine Area 10.

For East Elliot Bay, in-season information indicates that the expected return is large enough to support an additional weekend of fishing.

For Sinclair Inlet, the fishery will reopen with the reopening of Marine Area 10 after assessing potential enforcement issues that could have arisen with the closure of Marine Area 10 to Chinook retention.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 10, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits.** Effective August 11 through October 31, 2023, salmon rules for Catch Record Card Area 10 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 10, except; West Elliott Bay (waters of Elliott Bay east of a line from West Point to Alki Point and east of a line from Duwamish Head to Pier 91), East Elliott Bay (waters of Elliott Bay east of a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island), Year-round piers (Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier), and Sinclair Inlet:**

(a) Effective August 11 through August 13, 2023: Salmon daily limit 2 including no more than 1 hatchery Chinook and no more than 1 coho. Release wild Chinook and chum.

(b) Effective August 14 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(c) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(2) Sinclair Inlet (waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line drawn true west from Battle Point, and west of a line drawn true south from Point White):**

(a) Effective August 11 through September 30, 2023: Salmon daily limit 3 including no more than 1 coho. Release wild Chinook and chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(3) East Elliott Bay (waters of Elliott Bay east of a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island) except Seacrest Pier:**

(a) Effective August 11 through 11:59 a.m. August 14, 2023: Salmon daily limit 2 including no more than 1 hatchery Chinook and no more than 1 coho. Release wild Chinook and chum.

(b) Effective 12:00 p.m. August 14 through August 17, 2023: Salmon closed.

(c) Effective August 18 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(d) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(4) West Elliott Bay (waters of Elliott Bay east of a line from West Point to Alki Point and west of a line from Duwamish Head to Pier 91):**

(a) Effective August 18 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

REPEALER

The following section of Washington Administrative Code is repealed, effective August 11, 2023:

WAC 220-313-06000E Puget Sound salmon—Saltwater seasons  
and daily limits. (23-151)

**WSR 23-17-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-159—Filed August 10, 2023, 4:35 p.m., effective August 15, 2023]

Effective Date of Rule: August 15, 2023.

Purpose: The purpose of this emergency rule is to close shoreline fishing for game fish in a portion of the Rimrock Reservoir and to close fishing for game fish in South Fork Tieton River.

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

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

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

Reasons for this Finding: This rule is needed to limit impacts on Endangered Species Act threatened bull trout which stage in the reservoir near the mouth of the South Fork Tieton River. Recent estimates of bull trout spawning have indicated population declines and this measure is intended to limit targeted and incidental bull trout catch. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 10, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000J Freshwater exceptions to statewide rules—Eastside.** Effective August 15 through December 1, 2023, the following provisions of WAC 220-312-050, regarding fishing seasons in Rimrock Reservoir and Tieton River, South Fork shall be modified as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

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



Game fish: Closed to shoreline (bank) fishing.

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

Game fish: Closed to fishing.

## WSR 23-17-059

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed August 11, 2023, 3:00 p.m., effective August 11, 2023, 3:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Narcan as over-the-counter (OTC) status and adding a new section in chapter 246-945 WAC. In March 2023, the United States Food and Drug Administration (FDA) approved the 4 mg nasal spray naloxone under the brand Narcan as an OTC drug. Narcan is an opioid antagonist indicated for the emergency treatment of known or suspected opioid overdose. Currently, WAC 246-945-030 incorporates the 39th edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, or "Orange Book," which has Narcan listed as a prescription drug. The pharmacy quality assurance commission (commission) considers the ongoing opioid epidemic to be a public health emergency in Washington state. In order to combat this epidemic in Washington, the commission is amending WAC 246-945-030 and adding new WAC 246-945-034 classifying Narcan as an OTC drug.

The timeline for the availability of Narcan is set by the manufacturers. The adoption of this emergency rule would prepare Washington state for the moment that the drug becomes available by manufacturers. The proposed new section in chapter 246-945 WAC would also allow for expansion of different formularies if the FDA makes further changes. This preparation would allow for a faster release of the drug throughout the state, meaning this life-saving drug would be in the hands of Washingtonians faster. Increasing patient access to the drug is critical to reduce opioid overdoses.

Citation of Rules Affected by this Order: New WAC 246-945-034; and amending WAC 246-945-030.

Statutory Authority for Adoption: RCW 18.64.005.

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 adoption of this rule is necessary for the preservation of public health, safety, and general welfare. The opioid epidemic is a public health emergency which requires the use of the emergency rule-making process. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. This rule would increase access to this life-saving drug faster, which would help relieve some stress on affected communities in Washington state and attempt to reduce opioid overdoses.

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

Date Adopted: August 11, 2023.

Kenneth Kenyon, PharmD, BCPS, Chair  
Pharmacy Quality Assurance Commission

### OTS-4736.1

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

**WAC 246-945-030 Identification of legend drugs for purposes of chapter 69.41 RCW.** (1) Those drugs determined by the FDA to require a prescription under federal law should be classified as legend drugs under state law because their toxicity, potential for harmful effect, methods of use, or collateral measures necessary to their use indicate they are only safe for use under the supervision of a practitioner.

(2) The commission finds that under state law, legend drugs are those drugs designated as legend drugs under federal law, as of the date of adoption of this rule, and listed in at least one of the following publications unless the drug is identified as an over-the-counter drug by the commission in WAC 246-945-034:

(a) The 39th Edition, including supplements, of the *Approved Drug Products with Therapeutic Equivalence Evaluations "Orange Book"* (available at <https://www.fda.gov/drugs/drug-approvals-and-databases/approved-drug-products-therapeutic-equivalence-evaluations-orange-book>).

(b) The 2019 version, including monthly updates, of the *Approved Animal Drug Products "Green Book"* (available at <https://www.fda.gov/animal-veterinary/products/approved-animal-drug-products-green-book>).

(c) The 2019 *List of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations "Purple Book"* (available at <https://www.fda.gov/drugs/therapeutic-biologics-applications-bla/purple-book-lists-licensed-biological-products-reference-product-exclusivity-and-biosimilarity-or>).

(3) Copies of the reference material listed in subsection (2) of this section are available for public inspection at the commission's office at Department of Health, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501.

(4) The commission also identifies those ephedrine products specified in WAC 246-945-031 as legend drugs under state law.

(5) There may be changes in the marketing status of drugs after the publication of the above references. Upon application of a manufacturer or distributor, the commission may grant authority for the over-the-counter distribution of certain drugs designated as legend

drugs in these references. These determinations will be made after public hearing and will be published as an amendment to this chapter.

NEW SECTION

**WAC 246-945-034 Identification of the over-the-counter drugs.**

Although listed as a legend drug in publications that are incorporated by reference in WAC 246-945-030(2), the commission identifies the following as an over-the-counter drug in Washington: 4 mg naloxone hydrochloride nasal spray under the following brand names: Narcan Nasal Spray, approved by the FDA for distribution as an OTC drug product.

**WSR 23-17-060**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-161—Filed August 11, 2023, 4:06 p.m., effective August 11, 2023, 4:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule:

(1) Clarifies the pot limit for shrimp pot fisheries is specific to each gear type and allows a separate maximum 100 pot limit for spot shrimp pots and nonspot shrimp pots respectively.

(2) Defines the first spot shrimp catch accounting period as being from May 8 to August 1, 2023, and allows 5,000 pounds of spot shrimp to be harvested per license for the first catch accounting period.

(3) Defines the second spot shrimp catch accounting period as being from August 2 to August 22, 2023, and allows 5,400 pounds of spot shrimp to be harvested per license for the first and second catch accounting periods combined.

(4) Closes region 2E to nonspot harvest on August 15, 2023, due to projected quota attainment.

(5) Defines the nonspot species complex.

(6) Opens nonspot shrimp quota areas, defines the nonspot shrimp catch accounting periods; sets per license catch limit of 1,500 pounds for catch period number 1 and 1,200 pounds for each subsequent catch period; in Subregions 1A, 1B, and 1C and Region 2E, clarifies there is no weekly harvest limit in Regions 3 or 2W; and sets a 175-foot depth limit in Subregion 1A and Marine Fish-Shellfish Catch Area 23A.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000L; 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: August 11, 2023.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-520, effective 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 Harvest:

(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; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Open until further notice
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Closed
Region 2W	Open until further notice
Subarea 23A-E	Closed
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Open through August 12, 2023
Subarea 23A-S and MSFS Catch Area 23D	Open until further notice
MFSF Catch Area 23C	Open until further notice
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Closed
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Open until further notice
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Open until further notice
Region 5	Open until further notice
MFSF Catch Area 26D	Open until further notice
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 8, 2023, through one hour after official sunset on August 1, 2023.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 5,000 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period starts one hour before official sunrise on August 2, 2023, through one hour after official sunset on August 22, 2023.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to have exceeded 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) 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.

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

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

(3) Non-spot shrimp pot harvests:

(a) The non-spot shrimp species complex is defined as the following species of pandalid shrimp classified in WAC 220-320-010: Dock shrimp (*Pandalus danae*), Coonstripe shrimp (*Pandalus hypsinotus*), Humpty shrimp (*Pandalus goniurus*), Ocean pink shrimp (*Pandalus jordani*), pink shrimp (*Pandalus eous*), Side stripe shrimp (*Pandalus dispar*).

(b) 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.

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Open until further notice
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Open through August 15, 2023
Region 2W	Open until further notice
Region 3, not including Discovery Bay Shrimp District	Open until further notice
Discovery Bay Shrimp District	Open until further notice
Region 4	Closed
Region 5	Closed
Region 6	Closed

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

<b>Period Number</b>	<b>Start Date</b>	<b>End Date</b>
1	5/1/2023	5/16/2023
2	5/17/2023	5/30/2023
3	5/31/2023	6/13/2023
4	6/14/2023	6/27/2023
5	6/28/2023	7/11/2023
6	7/12/2023	7/25/2023
7	7/26/202	8/8/2023

Period Number	Start Date	End Date
8	8/9/2023	8/22/2023
9	8/23/202	9/5/2023
10	9/6/2023	9/19/2023
11	9/20/202	10/3/2023
12	10/4/2023	10/15/2023

(d) It is unlawful for the total harvest of non-spot shrimp per license to exceed 1,500 pounds during non-spot shrimp catch accounting period number 1 from subregions 1A, 1B, 1C, and Region 2E combined.

(e) It is unlawful for total harvest of non-spot shrimp to exceed 1,200 pounds per non-spot shrimp catch accounting period from subregions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 2 through 12.

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

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

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

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

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

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

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

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

**Reviser's note:** The spelling 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.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000L Commercial shrimp pot fishery—Puget Sound. (23-156)



**WSR 23-17-079**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-163—Filed August 15, 2023, 8:13 a.m., effective August 15, 2023, 8:13 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is needed to delay the recreational crab season opening in Marine Area 7 North, previously scheduled to begin August 17, until further notice.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000I and 220-330-04000J; 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 pause the opening of the recreational crab harvest in Marine Area 7 North until the softshell criteria in the management plan are met to reduce handling of softshell crab. This maintains the openings in the other marine areas listed to achieve the 50/50 harvest defined by the federal court order. Marine Area 12 south of a line projected due east from Ayock Point and Marine Area 13 will be closed. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 14, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000J Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective immediately through September 30, 2023, 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 4, 2023, 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 15, through 11:59 p.m. September 30, 2023, 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: Closed until further notice.

(4) **Marine Area 10:** Effective immediately, through 11:59 p.m. September 4, 2023, it is permissible to fish for crab for personal use on Sundays, and Mondays.

(5) **Marine Area 11:** Effective immediately, through 11:59 p.m. August 28, 2023, it is permissible to fish for crab for personal use on Sundays, and Mondays.

(6) **The portion of Marine Area 12 north of a line projected due east from Ayock Point:** Effective immediately, through 11:59 p.m. September 4, 2023, 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.

**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 effective immediately:

WAC 220-330-04000I Crab—Areas and seasons—Personal use.  
(23-99)

The following section of the Washington Administrative Code is repealed effective September 30, 2023:

WAC 220-330-04000J Crab—Areas and seasons—Personal use.  
(23-163)

**WSR 23-17-089**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-164—Filed August 15, 2023, 3:11 p.m., effective August 21, 2023]

Effective Date of Rule: August 21, 2023.

Purpose: Closes harvest of sea cucumber in Districts 2-2 and 5.

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

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

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

Reasons for this Finding: This emergency rule closes harvest of sea cucumber in Districts 2-2 and 5 due to projected quota attainment. Harvestable surpluses of sea cucumbers exist in the districts specified. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 15, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-340-73000K Sea cucumbers** Effective August 21, 2023, and until further notice, or until this rule expires on December 13, 2023, pursuant to RCW 34.05.350, the following provisions of WAC 220-340-730 regarding Puget Sound commercial sea cucumber harvest and sales shall be described below. All other provisions of WAC 220-340-730 not addressed herein, and unless otherwise amended, remain in effect:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 2-1, Monday through Sunday of each week.

(2) The maximum cumulative landing of sea cucumbers for each weekly fishery opening period is 1,500 pounds per license.

(3) The maximum cumulative landing of sea cucumbers for the period of August 1 to November 5, 2023 is 9,000 pounds per license from all Puget Sound commercial sea cucumber districts combined.

REPEALER

The following section of Washington Administrative Code is repealed, effective August 21, 2023:

WAC 220-340-73000J Sea cucumbers (23-153)

**WSR 23-17-090**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-166—Filed August 15, 2023, 3:20 p.m., effective August 20, 2023]

Effective Date of Rule: August 20, 2023.

Purpose: The purpose of this emergency rule is to modify commercial salmon seasons in Willapa Bay Areas 2M and 2R on August 20 and 25, 2023.

Citation of Rules Affected by this Order: Amending WAC 220-354-250.

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 commercial fishery in Willapa Bay Salmon Management and Catch Reporting Areas 2M and 2R on August 20, 2023, and close commercial salmon Areas 2M and 2R on August 25, 2023. There was an error in the original filing, and the emergency rule is needed to align the pre-season Willapa Bay TAMM model with the commercial schedule. Managers will continue to assess the fishery each opener and make any changes if warranted. All other rules remain in effect. There is insufficient time to adopt permanent rule.

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

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

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

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

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

Date Adopted: August 15, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-254-25000F Willapa Bay salmon fall fishery.** Notwithstanding the provisions of WAC 220-354-250, the following seasons for Willapa Bay commercial salmon areas 2M and 2R on August 20 and August 25, 2023, shall be modified as stated herein. All other provisions of WAC 220-354-250, not contained herein remain in effect unless otherwise altered by emergency rule:

Gillnet gear may used to fish for coho salmon, chum salmon, and Chinook salmon for dates and times listed in the table below:

Area	Time	Date	Maximum Mesh Size
2M, 2R	6:00 a.m. through 6:00 p.m.	August 20, 2023	4.25"
2M, 2R	CLOSED	August 25, 2023	

**WSR 23-17-095**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-165—Filed August 16, 2023, 9:22 a.m., effective August 17, 2023]

Effective Date of Rule: August 17, 2023.

Purpose: The purpose of this emergency rule is open coastal commercial salmon troll seasons with weekly landing and possession limits of seven Chinook and 100 coho.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000X; 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 sufficient to reopen the fishery is available for the troll fleet, but the remaining quota necessitates lower landing and possession limits for Chinook and coho in Areas 1 through 4 than in previous openings. This regulation is necessary to both meet conservation limits and to provide fishing opportunity and its corresponding economic benefit. These rules are adopted at the recommendation of the Pacific Fishery Management Council, in accordance with preseason fishing plans, and have been adopted for federal waters by the National Oceanic and Atmospheric Administration. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 15, 2023.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050 and WAC 220-354-010, effective August 17, 2023, 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: August 17 through September 30, 2023.

(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: August 17 through September 30, 2023.

(3) Landing and possession limit of 7 Chinook per vessel per landing week, defined as Thursday through Wednesday.

(4) Landing and possession limit of 100 marked coho per vessel per landing week, defined as Thursday through Wednesday.

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

(6) All retained coho must be marked with a healed adipose fin clip.

(7) No chum retention north of Cape Alava, WA in August and September.

(8) Minimum size for Chinook salmon is 27 inches in length (20 1/2 inches frozen dressed). Minimum size for coho salmon is 16 inches in length (12 inches frozen dressed). No minimum size for pink, sock-eye or chum salmon.

(9) 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.

(10) 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.

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

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

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

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

(12) 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 noti-



fyng WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook, coho, and halibut catch aboard and destination.

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

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

#### REPEALER

The following section of the Washington Administrative Code is repealed, effective August 17, 2023:

WAC 220-354-30000X Coastal salmon troll seasons—  
Commercial. (23-136)

**WSR 23-17-104**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-167—Filed August 16, 2023, 4:48 p.m., effective August 18, 2023]

Effective Date of Rule: August 18, 2023.

Purpose: The purpose of this emergency rule is to open hatchery Chinook retention seasons in a portion of Catch Record Card Area 10.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000G; and amending WAC 220-313-060.

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

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

Reasons for this Finding: This emergency rule is necessary to open hatchery Chinook seasons in portions of Catch Record Card Area 10.

Catch estimates for the Catch Record Card Area 10 summer Chinook fishery indicate that through August 13, 2023, 63 percent of the harvest quota (2,235 of 3,566) and 80 percent of sublegal encounters (6,219 of 7,748) have been reached. The Washington department of fish and wildlife has determined there is sufficient quota to reopen for three additional days of Chinook retention during the 2023 summer season.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 16, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000H Puget Sound salmon—Saltwater seasons and daily limits.** Effective August 18 through October 31, 2023, salmon rules for Catch Record Card Area 10 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

**(1) Catch Record Card Area 10, except; Elliott Bay, Shilshole Bay, Sinclair Inlet and Port Orchard, and Year-round piers (Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier):**

(a) Effective August 18 through August 20, 2023: Salmon daily limit 2 including no more than 1 hatchery Chinook and no more than 1 coho. Release wild Chinook and chum.

(b) Effective August 21 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(c) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(2) Elliott Bay (Waters of Elliott Bay east of a line from West Point to Alki Point and including Harbor Island (Duwamish Waterways)) except Seacrest Pier:**

(a) Effective August 18 through September 30, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook, chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(3) Shilshole Bay (Waters of Shilshole Bay southeast of a line from Meadow Point to West Point):**

(a) Effective September 1 through September 30: Salmon daily limit 2 including no more than 1 coho. Release Chinook and chum.

(b) Effective October 1 through October 31: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

**(4) Sinclair Inlet (Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line drawn true west from Battle Point, and west of a line drawn true south from Point White):**

(a) Effective August 18 through September 30, 2023: Salmon daily limit 3 including no more than 1 coho. Release wild Chinook and chum.

(b) Effective October 1 through October 31, 2023: Salmon daily limit 2 including no more than 1 coho. Release Chinook.

#### REPEALER

The following section of Washington Administrative Code is repealed, effective August 18, 2023:

WAC 220-313-06000G Puget Sound salmon—Saltwater seasons and daily limits. (23-160)

**WSR 23-17-113**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-169—Filed August 17, 2023, 2:42 p.m., effective August 18, 2023]

Effective Date of Rule: August 18, 2023.

Purpose: The purpose of this emergency rule [is to] open Chinook retention seven days per week in Catch Record Card Area 2.

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

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

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

Reasons for this Finding: The purpose of this rule is to modify ocean recreational salmon seasons in Marine Area 2. Effort and catch rates have decreased from the peak levels seen in July, and sufficient subarea Chinook guideline remains to return to allowing Chinook salmon retention seven days per week in the area without endangering the length of the salmon season. This rule maintains previously established recreational seasons in Areas 1, 3, and 4.

These rules for in-state waters are consistent with federal salmon fishing regulations adopted by the National Marine Fisheries Service in response to actions taken by the Pacific Fishery Management Council to set 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.

There is insufficient time for the 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 1.

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

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

Date Adopted: August 17, 2023.

Kelly Susewind  
Director

NEW SECTION**WAC 220-313-07500T Pacific Ocean salmon—Seasons—Closed areas.**

Effective August 18, through October 7, 2023, 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 August 18, through September 30, 2023:

- (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 August 18, through September 30, 2023:

- (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) August 18, 2023, through September 30, 2023, the Grays Harbor Control Zone is open (see WAC 220-306-040) and subject to rules and daily limits in subsections (2) (a) and (2) (b) of this rule.

(3) **Catch Record Card Area 3:**

(a) Open August 18, through September 30, 2023:

- (i) Daily limit of 2 salmon.
- (ii) Release wild coho and chum.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.

(b) Open October 3, through October 7, 2023, only in the area north of 47°50'00 N. lat. and south of 48°00'00"N. lat.:

- (i) Daily limit 1 Chinook salmon only.
- (ii) Release all salmon except Chinook.
- (iii) Chinook minimum length 24 inches.

(4) **Catch Record Card Area 4:**

(a) Open August 18, through September 30, 2023:

- (i) Daily limit of 2 salmon.
- (ii) Release wild coho and chum.
- (iii) Release Chinook in waters east of the Bonilla-Tatoosh line.
- (iv) Chinook minimum length 24 inches.
- (v) Coho minimum length 16 inches.

**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 Washington Administrative Code is repealed, effective August 18, 2023:

WAC 220-313-07500S Pacific Ocean salmon—Seasons—Closed areas. (23-145)

**WSR 23-17-116**  
**EMERGENCY RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed August 18, 2023, 8:24 a.m., effective August 18, 2023, 8:24 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend WAC 363-116-078 Pilot training program, pursuant to RCW 34.05.350 Emergency rules and amendments, in response to the COVID-19 pandemic and other emergency situations as defined by RCW 34.05.350.

Citation of Rules Affected by this Order: Amending WAC 363-116-078.

Statutory Authority for Adoption: Chapter 88.16 RCW, Pilotage Act.

Other Authority: RCW 34.05.350 Emergency rules and amendments.

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

Reasons for this Finding: To minimize the risk of introducing COVID-19 vectors of exposure onto a vessel or to pilot trainees, the board of pilotage commissioners (BPC) may suspend or adjust the pilot training program, including the number of trips needed to obtain maximum monthly stipend, as recommended by BPC's trainee evaluation committee (TEC). TEC may also consider additional training opportunities for pilot trainees, such as distance learning.

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: August 17, 2023.

Jaimie C. Bever  
Executive Director

**OTS-2151.4**

AMENDATORY SECTION (Amending WSR 19-03-141, filed 1/22/19, effective 2/22/19)

**WAC 363-116-078 Pilot training program.** After passing the written examination and simulator evaluation, pilot candidates pursuing a

pilot license are positioned on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board before consideration for licensure.

(1) Notification. Pilot candidates on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with the best address for notification to enter into a training program. In addition, a pilot candidate shall provide the board with other means of contact such as postal mailing or email address, phone number, and/or fax number. The email address with a read receipt request, however, will be considered the primary means of notification by the board. It will be the responsibility of the pilot candidate to ensure the board has current contact information at all times. If a pilot candidate cannot personally receive postal or electronic mail at the address(es) provided to the board for any period of time, another person may be designated in writing as having power of attorney specifically to act in the pilot candidate's behalf regarding such notice. If notice sent to the email address provided by the pilot candidate is not acknowledged after three attempts or if notice sent via certified mail is returned after three attempts to deliver, that pilot candidate will be skipped and the next pilot candidate on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot candidate or his/her designated attorney-in-fact shall respond within (~~fifteen~~) 15 calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot candidate or candidates in a training program for either pilotage district, notification shall be given as provided in subsection (1) of this section. Pilot candidates shall be ranked in accordance with a point system established by the board based on overall performance on the written examination and simulator evaluation. Candidates shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot candidate who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot candidate. If the pilot candidate indicated interest in the other pilotage district on the application for the written examination, the candidate shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot candidate who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When a pilot candidate delays entry into a training program by more than two months, the board gives notice to the next pilot candidate on the list for that pilotage district to enter a training program. The pilot candidate who delays entry shall remain eligible for the next position in that district provided that the next position becomes available within the earlier of:

- (i) Four years from the pilot candidate's taking the written examination; or
- (ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot candidate not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program

without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077.

(3) Training license. Prior to receiving a training license pilot candidates must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot candidates. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot candidate's fitness to pilot. The physical examination must be taken not more than (~~ninety~~) 90 days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within (~~ninety~~) 90 days prior to the anniversary date of that training license. Training license physical examinations will be at the expense of the pilot candidate. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot candidate shall provide a completed experience questionnaire to the trainee evaluation committee (TEC), a committee created per subsection (11) of this section. The training program consists of three phases: Observation trips, training trips, and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot candidate. If the pilot candidate agrees in writing to the training program, the board shall issue a training license to the pilot candidate, which license shall authorize the pilot candidate to take such actions as are contained in the training program. If the pilot candidate does not agree to the terms of a training program, in writing, within (~~fifteen~~) 15 business days of it being received by certified mail return receipt, or by email read receipt requested, that pilot candidate shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot candidate that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial assigned route.

(a) The TEC shall assign an initial route to each trainee at the beginning of his/her training program between a commonly navigated port or terminal and the seaward boundary of the pilotage district.

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is continuously on stipend, plus an additional month for every month a trainee is off stipend (up to a maximum of (~~fifteen~~) 15 months), the trainee must:

(i) Take and pass with a minimum score of (~~eighty~~) 80 percent all conning quizzes provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These quizzes may be repeated as necessary provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed within the time period specified in (b) of this subsection; and

(ii) Take and pass with a minimum score of (~~eighty-five~~) 85 percent the local knowledge examination(s) provided by the board ap-



plicable to the initial assigned route as described in subsection (8) of this section. These examinations can be repeated as necessary provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the initial assigned route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of assigned requirements in three phases: Observation, training, and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the TEC or with pilots designated by the TEC. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of (~~one hundred fifty~~) 150 trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by supervising pilots and the pilot members of the TEC or with pilots designated by the TEC.

(7) Length of training program. For the Puget Sound district the length of the program shall not exceed (~~thirty-six~~) 36 months. For the Grays Harbor district the length of the program will be determined at the time the training program is written.

(8) Local knowledge conning quizzes and local knowledge exams. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. Each conning quiz will be organized by main channel routes, ports, and approaches. A conning quiz is not intended to replace a local knowledge exam as specified in subsection (5)(b)(ii) of this section, but there will be some overlap of subject matter. A pilot trainee shall pass a conning quiz or quizzes related to the route or harbor area to move from the observation phase to the training phase of his/her training program for that route or harbor area. After a trainee has successfully passed a conning quiz on a main channel route or a port and approach, he/she will be eligible to take the conn on that route or approach unless it is a U.S. flag vessel and the required federal pilotage endorsement has not been obtained. The local knowledge exam for the initial route must be completed within eight months of the training start date if the trainee is taking the stipend. For each month the trainee is off stipend, an additional month is added up to a maximum of (~~fifteen~~) 15 months to successfully pass the appropriate local knowledge exam. The final local knowledge exam must be completed before consideration for licensing and must be successfully passed before the expiration date of the training program. The conning quizzes and local knowledge exams will be administered at the offices of the board of pilotage commissioners. Eighty percent is the passing

grade for conning quizzes, and ((~~eighty-five~~)) 85 percent is required for the local knowledge exams. If a trainee fails a conning quiz or local knowledge exam, it may be retaken after seven days, but must be passed within the timing deadlines discussed above. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:

- (a) Area geography;
  - (b) Waterway configurations including channel depths, widths and other characteristics;
  - (c) Hydrology and hydraulics of large ships in shallow water and narrow channels;
  - (d) Tides and currents;
  - (e) Winds and weather;
  - (f) Local aids to navigation;
  - (g) Bottom composition;
  - (h) Local docks, berths and other marine facilities including length, least depths and other characteristics;
  - (i) Mooring line procedures;
  - (j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;
  - (k) Vessel traffic system;
  - (l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;
  - (m) Air draft and keel clearances;
  - (n) Submerged cable and pipeline areas;
  - (o) Overhead cable areas and clearances;
  - (p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;
  - (q) Lock characteristics, rules and regulations;
  - (r) Commonly used anchorage areas;
  - (s) Danger zone and restricted area regulations;
  - (t) Regulated navigation areas;
  - (u) Naval operation area regulations;
  - (v) Local ship assist and escort tug characteristics;
  - (w) Tanker escort rules - State and federal;
  - (x) Use of anchors and knowledge of ground tackle;
  - (y) Applicable federal and state marine and environmental safety law requirements;
  - (z) Marine security and safety zone concerns;
  - (aa) Harbor safety plan and harbor regulations;
  - (bb) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; and
  - (cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.
- (9) Rest. It is the responsibility of the pilot trainee to obtain adequate rest. Pilot trainees shall observe the rest rules for pilots in place by federal or state law or regulation and rules established in the applicable pilotage district in which they will train, or any other rest requirements contained in a training program.
- (10) Stipend.

(a) At the initial meeting with the TEC the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition

of receiving such stipend, pilot trainees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the TEC, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program provided that such change request is provided in writing from the trainee. If the trainee intends to be in nonstipend status more than four consecutive months, his/her particular training program may be constructed to provide re-ency and/or a change in seniority placement prior to resuming the training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be a maximum of (~~six thousand dollars~~) \$6,000 per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-300 sufficient to cover the expense of the stipend, and shall be paid from a pilot training account as directed by the board. In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's receipt of funds, from any party collecting the tariff or providing funds, sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board.

Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the third day of the following month. Proration of the stipend shall be allowed at the rate of (~~two hundred dollars~~) \$200 per day (or such other amount as may be set by the board from time to time), under the following circumstances:

(i) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

(ii) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month.

(b) (i) In the Puget Sound pilotage district a minimum of (~~twelve~~) 12 trips are required each month for eligibility to receive the minimum stipend amount as set by the board, or (~~eighteen~~) 18 trips to receive the maximum stipend amount as set by the board. A trainee may make more than (~~eighteen~~) 18 trips in a calendar month, but no further stipend will be earned for doing so. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is (~~seventy~~) 70 percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

(ii) Whenever the governor issues a proclamation declaring a state of emergency or if the board determines that there is immediate need to act for the preservation of public health, safety, or general welfare, and that there is a threat to trainees, pilots, vessel crews, or members of the public, notwithstanding the other provisions of this chapter, the board, at its discretion, may suspend or adjust the pilot training program. Suspending or adjusting the pilot training program may include the number of trips necessary to receive the maximum stipend allowable under this section as determined by the board. The trainee evaluation committee may further consider additional nonship-board pilot training including, but not limited to, distance learning.

(c) The TEC will define areas that are considered to be hard-to-get, which many differ for trainees depending on their date of entry. It is the pilot trainee's responsibility to make all available hard-to-get trips, as defined and assigned by the TEC. The board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

(d) The TEC, with approval by the board may allocate, assign or specify training program trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training program trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

(i) When it is necessary to accommodate any pilot trainee's initial route;

(ii) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

(e) If a pilot trainee elects to engage in any full-or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

(f) If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of (~~thirty~~) 30 days beginning at the beginning of a month, provided that before any change takes effect, a request is made to the TEC in writing. The requirement for designated hard-to-get trips is waived during the time the pilot trainee is authorized to be in nonstipend status.

(g) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC 363-116-185 or 363-116-300 shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC 363-116-185 shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a monthly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) Supervising pilots. The board shall designate as supervising pilots those pilots who are willing to undergo such specialized training as the board may require and provide. Supervising pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of supervising pilots available for public inspection at all times. All pilot members TEC shall also be supervising pilots.

(13) Training program trip reports. After each training program trip, the licensed or supervising pilot shall complete a training program trip report form (TPTR) provided by the board. Training program trip report forms prepared by licensed pilots who are supervising pilots shall be used by the TEC and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. Licensed pilots who are not supervising pilots may only have trainees on board for observation trips. All trip report forms shall be delivered or mailed by the licensed or supervising pilot to the board. They shall not be given to the pilot trainee. The licensed or supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. The TEC shall review these training program trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

(a) Failure to maintain the minimum federal license required by RCW 88.16.090;

(b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;

(c) Failure to devote full time to training in the Puget Sound pilotage district while receiving a stipend;

(d) The pilot trainee is not physically fit to pilot;

(e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;

(f) Inadequate performance on examinations or other actions required by a training program;

(g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;

(h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training program trips as determined by the supervising pilots, the TEC and/or the board; or

(i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirements that the pilot trainee:

(a) Successfully complete all requirements set forth in the training program including any addendum(s) to the program;

(b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot candidate seeks a license; and

(c) Complete portable piloting unit (PPU) training as defined by the TEC.

WSR 23-17-117  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 23-168—Filed August 18, 2023, 9:11 a.m., effective August 18, 2023, 9:11 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 220-359-02000U; and amending WAC 220-359-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: This rule sets treaty commercial sales for the Columbia River mainstem Zone 6 fall-season gillnet fisheries. This rule is consistent with actions of the Columbia River Compact on July 18 and August 16, 2023. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

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

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

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

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

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

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

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

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

Date Adopted: August 18, 2023.

Kelly Susewind  
Director

#### NEW SECTION

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

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

(a) Season: 6:00 AM August 21 through 6:00 PM August 24  
6:00 AM August 28 through 6:00 PM August 31

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

(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 may be kept for subsistence purposes.

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

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

(a) Season: Immediately, until further notice.



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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day pools may be kept for subsistence purposes.

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

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

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

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

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

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

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

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

(c) Allowable sales: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Fish landed during the open periods are allowed to be sold after the period concludes. Sturgeon from 38 to 54 inches fork length may be kept for subsistence.

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

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

**Reviser's note:** The spelling 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 220-359-02000U Columbia River salmon seasons above Bonneville Dam. (23-137)

**WSR 23-17-119**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-171—Filed August 18, 2023, 3:41 p.m., effective August 19, 2023]

Effective Date of Rule: August 19, 2023.

Purpose: The purpose of this emergency rule is to increase the pink salmon portion of the salmon daily limit in Catch Record Card areas 5, 6, and 7.

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

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

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

Reasons for this Finding: This emergency rule is necessary to increase the pink salmon portion of the salmon daily limit in Catch Record Card Areas 5, 6, and 7.

Fishery managers have determined that the current run of Fraser River pink salmon is coming in above forecast, allowing for additional pink salmon retention in these Puget Sound recreational fisheries.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 18, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-313-06000I Puget Sound salmon—Saltwater seasons and daily limits.** Effective August 19 through September 30, 2023, salmon rules described in WAC 220 313-060 for Catch Record Card areas 5, 6, and 7 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

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

Effective August 19 through September 30, 2023: Salmon daily limit 2 plus 2 additional pink salmon. Release Chinook, wild coho, and chum.

**(2) Catch Record Card Area 6**, except Dungeness Bay (described in WAC 220 313 060(3)):

Effective August 19 through September 30, 2023: Salmon daily limit 2 plus 2 additional pink salmon. Release Chinook, wild coho, and chum.

**(3) Catch Record Card Area 7**, except Lummi Bay (described in WAC 220-313-060(4), Samish Bay (described in WAC 220-313-020(7)), Southern Rosario Strait/Eastern Strait of Juan de Fuca (described in WAC 220-313-020(7)), and Bellingham Bay (described in WAC 220-313-020(1)):

(a) Effective August 19 through August 31: Salmon daily limit 2 plus 2 additional pink salmon. Release Chinook, wild coho, and chum.

(b) Effective September 1 through September 30: Salmon daily limit 2 including no more than 1 coho plus 2 additional pink salmon. Release Chinook and chum.

**WSR 23-17-120**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-172—Filed August 18, 2023, 3:44 p.m., effective August 18, 2023, 3:44 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule:

(1) Defines the second spot shrimp catch accounting period as being from August 2 to 18, 2023, and allows 5,400 pounds of spot shrimp to be harvested per license for the first and second catch accounting periods combined.

(2) Opens areas for commercial spot shrimp clean-up fisheries.

(3) Sets hard closure dates agreed to with comanagers for spot shrimp fisheries.

(4) Sets hard closure dates agreed to with comanagers for nonspot shrimp fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000M; 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 promote full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 18, 2023.

Kelly Susewind  
Director

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

Notwithstanding the provisions of WAC 220-340-520, effective immediately, through October 15, 2023, 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 Harvest:

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

<b>Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)</b>	<b>Open Period</b>
Subregion 1A	Open through September 15, 2023
Subregion 1B	Closed
Subregion 1C	Open August 19 through September 15, 2023
Region 2E	Open August 19 through September 15, 2023
Region 2W	Open through September 15, 2023
Subarea 23A-E	Open August 19 through September 15, 2023
Subarea 23A-W	Open August 19 through September 15, 2023
Subarea 23A-C and MSFS Catch Area 23B	Open August 19 through September 15, 2023
Subarea 23A-S and MSFS Catch Area 23D	Open through September 15, 2023
MFSF Catch Area 23C	Open through September 15, 2023
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Open August 19, 2023, through September 15, 2023
Discovery Bay Shrimp District	Open August 19 through September 15, 2023
MFSF 29 (Straits - Neah Bay)	Open through September 15, 2023
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Open through September 15, 2023
Region 5	Open through August 31, 2023
MFSF Catch Area 26D	Open through September 15, 2023
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 8, through one hour after official sunset on August 1, 2023.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 5,000 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period started one hour before official sunrise on August 2, through one hour after official sunset on August 18, 2023.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to exceed 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

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

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

(3) Non-spot shrimp pot harvests:

(a) The non-spot shrimp species complex is defined as the following species of pandalid shrimp classified in WAC 220-320-010: Dock shrimp (*Pandalus danae*), Coonstripe shrimp (*Pandalus hypsinotus*), Humpty shrimp (*Pandalus goniurus*), Ocean pink shrimp (*Pandalus jordani*), pink shrimp (*Pandalus eous*), Side stripe shrimp (*Pandalus dispar*).

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

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	Open through October 15, 2023
Subregion 1B	Closed
Subregion 1C	Closed
Region 2E	Closed
Region 2W	Open through October 15, 2023
Region 3, not including Discovery Bay Shrimp District	Open through October 15, 2023
Discovery Bay Shrimp District	Open through October 15, 2023
Region 4	Closed
Region 5	Closed
Region 6	Closed

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

Period Number	Start Date	End Date
1	5/1/2023	5/16/2023
2	5/17/2023	5/30/2023
3	5/31/2023	6/13/2023
4	6/14/2023	6/27/2023
5	6/28/2023	7/11/2023
6	7/12/2023	7/25/2023
7	7/26/202	8/8/2023
8	8/9/2023	8/22/2023
9	8/23/202	9/5/2023
10	9/6/2023	9/19/2023
11	9/20/202	10/3/2023
12	10/4/2023	10/15/2023

(d) It is unlawful for the total harvest of non-spot shrimp per license to exceed 1,500 pounds during non-spot shrimp catch accounting period number 1 from subregions 1A, 1B, 1C, and Region 2E combined.

(e) It is unlawful for total harvest of non-spot shrimp to exceed 1,200 pounds per non-spot shrimp catch accounting period from subre-

gions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 2 through 12.

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

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

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

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

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

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

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

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

**Reviser's note:** The spelling 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.

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

#### REPEALER

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

WAC 220-340-52000M Commercial shrimp pot fishery—Puget Sound. (23-161)

**WSR 23-17-122**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-170—Filed August 18, 2023, 4:55 p.m., effective August 18, 2023, 4:55 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Opens the recreational crab harvest in Marine Area 7 North on Sunday August 20.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000J and 220-330-04000K; and 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 recreational crab harvest in Marine Area 7 North on Sunday August 20. A third sampling of the area indicates the required percentage of legal size male crab that are hardshell meets the criteria to open fisheries. This maintains the openings in the other marine areas listed to achieve the 50/50 harvest defined by the federal court order. Marine Area 12 south of a line projected due east from Ayock Point and Marine Area 13 will be closed. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 18, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-330-04000K Crab—Areas and seasons—Personal use.** Notwithstanding the provisions of WAC 220-330-040, effective immediately through September 30, 2023, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:



(1) **Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 6, 8-1, 8-2, and 9:** Effective immediately through 11:59 p.m. September 4, 2023, 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 immediately through 11:59 p.m. September 30, 2023, 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 20, through 11:59 p.m. September 4, 2023, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays.

(4) **Marine Area 10:** Effective immediately, through 11:59 p.m. September 4, 2023, it is permissible to fish for crab for personal use on Sundays, and Mondays.

(5) **Marine Area 11:** Effective immediately, through 11:59 p.m. August 28, 2023, it is permissible to fish for crab for personal use on Sundays, and Mondays.

(6) **The portion of Marine Area 12 north of a line projected due east from Ayock Point:** Effective immediately, through 11:59 p.m. September 4, 2023, 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:

WAC 220-330-04000J Crab—Areas and seasons—Personal use.  
(23-163)

The following section of the Washington Administrative Code is repealed effective October 1, 2023:

WAC 220-330-04000K Crab—Areas and seasons—Personal use.

**WSR 23-17-123**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed August 18, 2023, 5:06 p.m., effective August 23, 2023]

Effective Date of Rule: August 23, 2023.

Purpose: The department is adopting emergency amendments to WAC 388-412-0040 Can I get my benefits replaced? These amendments authorize replacement of Supplemental Nutrition Assistance Program (SNAP) and food assistance program (FAP) benefits due to EBT card skimming, cloning, or other similar fraudulent methods. In addition, the amendments update WAC language to better align with federal rules as needed. These amendments are necessary to comply with Title IV, Section 501 of the Consolidated Appropriation Act 2023.

Citation of Rules Affected by this Order: Amending WAC 388-412-0040.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120.

Other Authority: Title IV, Section 501 of the Consolidated Appropriation Act 2023; H.R. 8337, 133, 1319.

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

Reasons for this Finding: Emergency adoption of these rules is necessary to authorize implementation for replacing SNAP and FAP benefits stolen due to EBT card skimming, cloning, and similar fraudulent activity. This protects the health, safety, and general welfare by supporting access to public assistance.

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 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: August 16, 2023.

Katherine I. Vasquez  
Rules Coordinator

**SHS-4991.6**

AMENDATORY SECTION (Amending WSR 11-19-047, filed 9/13/11, effective 10/14/11)

**WAC 388-412-0040 Can I get my benefits replaced?** Under certain conditions, we may replace your benefits.

(1) You may get either your EBT cash ~~((and/))~~ or food assistance, ~~((benefits))~~ or both replaced if:

(a) We make a mistake that causes you to lose benefits;

(b) The EBT card mailed to you is stolen from the mail ~~((+))~~, and you lost benefits;

(c) You left a drug or alcohol treatment facility on or before the ~~((fifteenth))~~ 15th of the month and the facility does not have enough food assistance benefits in their EBT account for one-half of the allotment that they owe you;

(d) Your EBT benefits that were recently deposited into an inactive EBT account were canceled by mistake; or

(e) The food that your household purchased with food assistance benefits was destroyed in a household disaster or misfortune.

(i) For us to replace your benefits, you must report the loss to the department within ~~((ten))~~ 10 days from the date of the loss.

(ii) We replace the amount of your loss ~~((+))~~ up to a one-month benefit amount.

(iii) There is no limit to the number of replacements for food destroyed in a household misfortune.

(f) Your food benefits were stolen, despite your EBT card being in your possession, via card skimming, cloning, or other similar fraudulent method between October 1, 2022, and September 30, 2024; and

(i) The head of household of your assistance unit submitted a completed and signed claim within 30 days of discovering the loss; and

(ii) You have not already received two replacements in the current federal fiscal year.

(iii) We replace the amount of your loss or the amount of twice your food assistance allotment that was issued immediately prior to the date of the theft, whichever is less.

(iv) Retroactive claims for food assistance stolen between October 1, 2022, and August 22, 2023, must be reported no later than October 22, 2023.

(v) Replacement of benefits stolen via card skimming, cloning, or other similar method is contingent upon federal approval.

(2) We will not replace your benefits ~~((if your loss is for a reason other than those listed in subsection (1) above))~~ if:

(a) We decided that your request is fraudulent or skimming is not validated;

(b) Your ~~((food assistance benefits were))~~ EBT card was lost, stolen, or misplaced except for (1)(b) of this section ~~((after you received them));~~

(c) ((You already received two replacements for food destroyed in household disaster or misfortune within the last five months)) You are pending an administrative hearing decision regarding a denial of replacement benefits. You have the right to an administrative hearing if your request for replacement benefits is denied; or

(d) You received disaster supplemental nutrition assistance program (D-SNAP) benefits for the same month you requested a replacement for food assistance.

(3) ~~((EBT cards-))~~ It is your responsibility to keep track of your household's EBT card.

- (a) If you have multiple EBT cards replaced, we may suspect you to be trafficking benefits as described under WAC 388-412-0046 (2)(d).
- (b) If we suspect trafficking, we will refer your case for investigation by the office of fraud and accountability. Persons trafficking in food assistance benefits may be subject to fines, disqualification from food assistance, and legal action including criminal prosecution.

**WSR 23-17-137**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-173—Filed August 21, 2023, 3:10 p.m., effective August 24, 2023]

Effective Date of Rule: August 24, 2023.

Purpose: The purpose of this emergency rule is close week 34 commercial beach seine fisheries for Puget Sound Salmon Management and Catch Reporting Area 12C.

Citation of Rules Affected by this Order: Amending WAC 220-354-210.

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

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

Reasons for this Finding: This rule is necessary to close Puget Sound Salmon Management and Catch Reporting Area 12C for week 34. Commercial take has exceeded preseason expectations. This time is needed to allow for equity in catch share with comanagers and in-season management review. This pause in commercial fishing will also allow hatcheries to collect needed broodstock.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 21, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-21000J Puget Sound salmon—Beach seine—Open periods.**

Effective the day of August 24, 2023, the following provisions of WAC 220-354-210 regarding commercial Beach Seine open periods for Puget Sound Salmon Management and Catch Reporting Area 12C shall be as described below. All other provisions of WAC 220-354-210 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Open Time	Date(s)
12C	Closed		8/24

**WSR 23-17-140**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-174—Filed August 22, 2023, 8:37 a.m., effective August 22, 2023, 8:37 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to name participants in the limited entry, week 34, 35, and 36, purse seine and gillnet fisheries in Puget Sound Salmon Management and Catch Reporting Area 10.

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

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

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

Reasons for this Finding: This rule is necessary to name commercial purse seine and gillnet fishery participants targeting pink salmon in Puget Sound Salmon Management and Catch Reporting Areas 10 as required by WAC 220-354-050 for limited participation salmon net fisheries. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 22, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-12000U Puget Sound salmon—Purse seine—Open periods.** Effective immediately, through September 6, 2023 (weeks 34, 35, and 36), the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 purse seine fishery under provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Area 10. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

- (a) Michael Gruenheit - FV Wisconsin
- (b) Norman Anderson - FV Equator
- (c) William Gardner - FV Sofia Lynn
- (d) Nicholas Demmert - FV Peyton Elizabeth
- (e) Ralph Cole - FV DC Cole

NEW SECTION

**WAC 220-354-16000E Puget Sound salmon—Gillnet—Open periods.**

Effective immediately, through September 7, 2023 (weeks 34, 35, and 36), the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 gillnet fishery under provisions of WAC 220-354-160 regarding commercial gillnet open periods in Puget Sound Salmon Management and Catch Reporting Area 10. All other provisions of WAC 220-354-160 not contained herein remain in effect unless otherwise altered by emergency rule:

- (a) Jonah Knutson - FV Loki
- (b) Byron Spence - FV Sanjo
- (c) John McDonald - FV Mount Royal



**WSR 23-17-156**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 23-175—Filed August 22, 2023, 5:03 p.m., effective August 23, 2023]

Effective Date of Rule: August 23, 2023.

Purpose: The purpose of this emergency rule is to open commercial reef net fisheries in Puget Sound Salmon Management and Catch Reporting Area 7.

Citation of Rules Affected by this Order: Amending WAC 220-354-180.

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 provide for Pacific Salmon Commission authorized commercial fisheries in Puget Sound Management and Catch Reporting Area 7. These fisheries have been authorized by the Fraser River panel as part of the Pacific Salmon Treaty. In-season information indicates that there are harvestable pink salmon available for United States fisheries. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 22, 2023.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-354-18000X Reef net open periods.** Notwithstanding the provisions of WAC 220-354-180, effective the day of August 23, 2023, only, it is unlawful to take, fish for, or possess salmon taken with reef net gear for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except as provided in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Open to reef net gear according to the times, dates and conditions contained herein:

Open Areas	Open Periods
7	5 AM - 9 PM 8/23

(a) It is unlawful to retain unmarked Chinook, sockeye, and chum.

(b) It is unlawful to retain marked Chinook or unmarked coho unless the reef net operator is in immediate possession of a Puget Sound Reef Net Logbook. All retained marked Chinook must be recorded in the logbook in accordance with requirements of WAC 220-354-180.

(c) Marked Chinook and coho are those with a missing adipose fin with a healed scar, unmarked Chinook and coho have an intact adipose fin.

(d) It is unlawful to fish for salmon with reef net gear in Area 7 unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in immediate possession of a department issued certification card.

(e) "Quick Reporting Fisheries":

All fisheries opened under this section, and any fishery opening under authority of the Fraser Panel for sockeye in Puget Sound Salmon Management and Catch Reporting Areas (WAC 220-301-030), are designated as "Quick Reporting Required" per WAC 220-352-325 Puget Sound salmon and sturgeon—Additional reporting requirements and WAC 220-354-090 Puget Sound salmon—Quick reporting.

WSR 23-17-167  
EMERGENCY RULES  
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Division of Vocational Rehabilitation)

[Filed August 23, 2023, 10:44 a.m., effective August 23, 2023, 10:44 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The current proposal would remove references in WAC to post-employment services provided by the division of vocational rehabilitation (DVR) as being available to the customer post exit. The department filed a CR-105 expedited rule making under WSR 22-15-044 to begin the permanent adoption process and has been working with tribes and stakeholders to develop permanent language. We have also implemented changes to our case management system and updated our customer services manual.

Citation of Rules Affected by this Order: Amending WAC 388-891A-0610 and 388-891A-0890.

Statutory Authority for Adoption: RCW 34.05.350 (1)(b), 74.29.020(8), and 74.29.050.

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: DVR received recent guidance from the rehabilitation services administration (RSA) that clarifies RSA's interpretation of when vocational rehabilitation agencies may provide post-employment services under the Rehabilitation Act. RSA's interpretation is inconsistent with how Washington DVR had been providing post-employment services and how it is defined in WAC. Provision of post-employment services is subject to receipt of federal funding. Continuing to apply WAC 388-891A-0610 and 388-891A-0890 as currently written will place DVR out of compliance with federal guidance and could jeopardize its ability to receive federal funding. If DVR chose not to continue the emergency rule it could be interpreted to be in violation of RCW 74.29.050.

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

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

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

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

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

Date Adopted: August 23, 2023.

Katherine I. Vasquez  
Rules Coordinator

SHS-4925.1

AMENDATORY SECTION (Amending WSR 18-12-035, filed 5/29/18, effective 6/30/18)

**WAC 388-891A-0610 How are individuals selected for services when DVR is operating under an order of selection?** When DVR is operating under an order of selection, individuals are selected for services as follows:

(1) At the time you are determined eligible for VR services, a DVR counselor assigns you to a priority category based on the severity of your disability.

(2) The priority categories are defined in WAC 388-891A-0620 through 388-891A-0660.

(3) As resources become available for DVR to serve additional individuals, DVR selects names from the waiting list in the priority category being served at that time.

(4) Within a priority category, the date you applied for VR services determines the order in which you are selected from the waiting list.

(5) DVR may provide you specific services or equipment without requiring that you wait for services under an order of selection if:

(a) You are at immediate risk of losing your job in a competitive integrated setting for reasons related to your disability; and

(b) You require specific services or equipment in the very near future that will enable you to keep your job.

~~((6) If you have successfully achieved an employment outcome as described in WAC 388-891A-1310, are currently employed, and require post-employment services, you are not required to wait for services under an order of selection.))~~

AMENDATORY SECTION (Amending WSR 18-12-035, filed 5/29/18, effective 6/30/18)

**WAC 388-891A-0890 What are post-employment services?** Post-employment services include one or more vocational rehabilitation services provided if:

(1) ~~((Your case was closed because y))~~ You achieved ~~((an))~~ employment ~~((outcome))~~;

(2) Your rehabilitation needs are limited in scope and duration; and

(3) You need post-employment services to maintain, advance in, or regain employment that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.