

WSR 23-18-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-176—Filed August 23, 2023, 2:07 p.m., effective August 24, 2023]

Effective Date of Rule: August 24, 2023.

Purpose: The purpose of this emergency rule is to open purse seine and gillnet fisheries in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A and reefnet fisheries in Area 7.

Citation of Rules Affected by this Order: Amending WAC 220-354-120, 220-354-160, and 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 schedule openings for commercial purse seine and gillnet fisheries in Puget Sound Management and Catch Reporting Areas 7 and 7A and commercial reefnet fisheries in Area 7. Prosecuting these fisheries has 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000V Puget Sound salmon—Purse seine—Open periods. Effective August 24 through August 25, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
7 and 7A	8/24, 8/25	Open	5 a.m. - 9 p.m.

Release all salmon other than pink salmon.

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NEW SECTION

WAC 220-354-16000F Puget Sound salmon—Gillnet—Open periods.

Effective August 24 through August 25, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as described below. All other provisions of WAC 220 354 160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area(s)	Date(s)	Open/Closed	Daily open period	Minimum mesh size
7 and 7A	8/24, 8/25	Open	8 a.m. - midnight	6 1/4"

Sockeye must be released.

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NEW SECTION

WAC 220-354-18000Y Reef net open periods. Notwithstanding the provisions of WAC 220-354-180, effective August 24 through August 25, 2023, 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:

Area(s)	Date(s)	Open/Closed	Daily open period
7	8/24, 8/25	Open	5 a.m. - 9 p.m.

(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.

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WSR 23-18-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-177—Filed August 23, 2023, 4:06 p.m., effective August 23, 2023, 4:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close commercial purse seine and gillnet fisheries targeting pink salmon in Puget Sound Salmon Management and Catch Area 10.

Citation of Rules Affected by this Order: Repealing WAC 220-354-12000U and 220-354-16000E; and 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 emergency rule is needed to close limited participation purse seine and gillnet fisheries targeting pink salmon in Puget Sound Management and Catch Reporting Areas 10. Closure of these fisheries is necessary to avoid going over allowed Chinook impacts. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: August 23, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000W Puget Sound salmon—Purse seine—Open periods. Effective immediately, through September 6, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting Area 10 shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
10	8/23, 8/24, 8/29, 8/30, 9/5, 9/6	Closed	

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NEW SECTION

WAC 220-354-16000G Puget Sound salmon—Gillnet—Open periods.

Effective immediately, through September 6, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Area 10 shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area(s)	Date(s)	Open/Closed	Daily open period	Minimum mesh size
10	8/23, 8/24, 8/29, 8/30, 9/5, 9/6	Closed		

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REPEALER

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

- WAC 220-354-12000U Puget Sound salmon—Purse seine—Open periods. (23-174)
- WAC 220-354-16000E Puget Sound salmon—Gillnet—Open periods. (23-174)

WSR 23-18-011
EMERGENCY RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed August 24, 2023, 8:39 a.m., effective August 24, 2023, 8:39 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend WAC 357-31-255 to allow an employer to grant up to three days leave with pay to an employee who is experiencing extraordinary or severe impacts from the 2023 wildfires referenced in Governor Jay Inslee's Emergency Proclamation 22-05 [23-05], effective August 19, 2023.

Citation of Rules Affected by this Order: Amending WAC 357-31-255.

Statutory Authority for Adoption: RCW 41.06.133.

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: Effective August 19, 2023, Governor Jay Inslee issued emergency Proclamation 23-05, 2023 Wildfires, which directed state agencies and departments to utilize state resources to respond to the event. State employees have been directly and severely impacted by this emergency, including loss of their homes and residences. In these extreme and urgent circumstances, the temporary relief provided by this emergency rule making is necessary to sustain the health, safety, and welfare of our state workforce.

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

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

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

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

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

Date Adopted: August 24, 2023.

Nathan Sherrard
Assistant Legal Affairs Counsel

OTS-4890.1

AMENDATORY SECTION (Amending WSR 22-01-022, filed 12/3/21, effective 7/1/22)

WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather

or because of the 2023 wildfires referenced in proclamation 23-05?

(1) When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave, compensatory time, and holiday credit may be used to account for the time an employee is absent from work due to the inclement weather.

(2) The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the employee.

(3) The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

(4) The employer may allow leave with pay due to employees experiencing extraordinary or severe impacts from the 2023 wildfires referenced in proclamation 23-05, issued August 19, 2023, by the governor and declaring an emergency in the state of Washington. The employee may receive up to three days of leave with pay under this subsection. The employer may require verification of the reason for leave with pay use. This subsection is effective until the expiration of proclamation 23-05 or any amendment thereto, whichever is later.

[Statutory Authority: Chapter 41.06 RCW. WSR 22-01-022, § 357-31-255, filed 12/3/21, effective 7/1/22; WSR 15-11-102, § 357-31-255, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-255, filed 9/20/11, effective 10/24/11; WSR 07-11-093, § 357-31-255, filed 5/16/07, effective 7/1/07; WSR 05-08-137, § 357-31-255, filed 4/6/05, effective 7/1/05.]

WSR 23-18-015

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed August 25, 2023, 9:15 a.m., effective August 25, 2023, 9:15 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Washington's Healthcare and Emergency and Logistics Tracking Hub (WA HEALTH) reporting for acute care hospitals; new WAC 246-320-700 Reporting of health system readiness data. The department of health (department) is extending this emergency rule, WAC 246-320-700, to continue to require acute care hospitals licensed under chapter 70.41 RCW to report hospital maintenance and operation data to the department through WA HEALTH in accordance with the WA HEALTH user guide. WA HEALTH continues to be used daily for state and local public health and medical preparedness planning to inform planned patient movement, coronavirus disease 2019 (COVID-19) and influenza hospitalization and disease trends, the ability of the system to absorb another surge, and supply needs across the state, so patients have access to the appropriate level of health care. This continues the emergency rule originally filed on August 31, 2022, as WSR 22-18-060; and extended on December 29, 2022, and April 28, 2023, as WSR 23-02-036 and 23-10-047, respectively.

Citation of Rules Affected by this Order: New 246-320-700.

Statutory Authority for Adoption: RCW 70.41.030.

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 adoption of this rule as an emergency rule is necessary to allow for the continuation of critical public health reporting of timely and accurate data pertaining to hospital patient volumes, capacities, and resource constraints as there continues to be strain on Washington's health care system. This will ensure health system readiness, promote safe and adequate care of individuals in hospitals, and mitigate the impact of these and other emerging public health threats and associated surges. Additionally, ESSB 5187 (chapter 475, Laws of 2023) contained several provisions for the department to consider use cases for data systems, including WA HEALTH. During this emergency rule extension, WA HEALTH program staff are supporting several information gathering and planning efforts that will inform potential permanent rule making. The department intends to initiate a rule-making project in the fall of 2023 to work with interested parties on consideration of adopting this requirement as a 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 0.

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

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

Date Adopted: August 25, 2023.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-3921.2

NEW SECTION

WAC 246-320-700 Reporting of health system readiness data. The purpose of this section is to outline each hospital's responsibility for reporting to the department data pertaining to the maintenance and operation of the hospital in support of health system readiness.

(1) For the purposes of this section:

"WA HEALTH User Guide" means the written instructions issued by the department for reporting to the department hospital maintenance and operation data pertaining to health system readiness.

(2) Hospitals must report data to the department in accordance with the WA HEALTH User Guide, including any amended versions thereof issued by the department. Copies of the WA HEALTH User Guide may be obtained on the department's website or by contacting the department.

(3) Any person who receives data reported under this section must maintain confidentiality of the data as required by applicable law.

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WSR 23-18-017
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 25, 2023, 10:14 a.m., effective September 1, 2023]

Effective Date of Rule: September 1, 2023.

Purpose: The department of social and health services (department) is amending WAC 388-444-0030 Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food? and 388-444-0035 Who is exempt from ABAWD time limits and minimum work requirements? Adoption of these emergency amendments is necessary to comply with federal regulatory changes under the Fiscal Responsibility Act of 2023, effective September 1, 2023.

Citation of Rules Affected by this Order: Amending WAC 388-444-0030 and 388-444-0035.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120.

Other Authority: H.R. 3746, H.R. 6201.

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

Reasons for this Finding: These emergency amendments are necessary to comply with federal regulatory changes under the Fiscal Responsibility Act of 2023, effective September 1, 2023. The department is concurrently proceeding with the permanent rule change 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 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: August 23, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4998.2

AMENDATORY SECTION (Amending WSR 21-07-132, filed 3/23/21, effective 4/23/21)

WAC 388-444-0030 Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food? (1) An able-bodied adult without dependents (ABAWD) is a person who:

- (a) Is age (~~eighteen~~) 18 through:
 - (i) (~~forty-nine~~) 50 from September 1, 2023, to September 30, 2023;
 - (ii) 52 from October 1, 2023, to September 30, 2024;
 - (iii) 54 beginning October 1, 2024; and
- (b) Is fit for work and not exempted under WAC 388-444-0035.
- (2) (~~If you are an ABAWD, you must participate in work activities under subsection (3) of this section.~~
~~(3))~~) A nonexempt ABAWD is not eligible to receive food assistance for more than three full months (which do not have to be consecutive months), not including any partial benefit months in a (~~thirty-six~~) 36 month period, unless the ABAWD:
 - (a) Works an average of (~~eighty~~) 80 hours per month, including:
 - (i) Work in exchange for money;
 - (ii) Work in exchange for goods or services ("in kind" work);
 - (iii) Unpaid work that is verified according to department requirements; or
 - (iv) Any combination of (a)(i) through (iii) of this subsection;
 - (b) Participates in one of the following work programs and is meeting the requirements of that work program:
 - (i) The Workforce Innovation and Opportunity Act of 2014;
 - (ii) Section 236 of the Trade Act of 1974;
 - (iii) A state-approved employment and training program at least an average of (~~eighty~~) 80 hours per month; or
 - (c) Participates in an unpaid work program as provided in WAC 388-444-0040.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. 273.7, 7 C.F.R. 273.24. WSR 21-07-132, § 388-444-0030, filed 3/23/21, effective 4/23/21. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and Title 7 C.F.R. Part 273.24. WSR 19-17-086, § 388-444-0030, filed 8/21/19, effective 9/21/19. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, and 74.08A.120. WSR 18-02-037, § 388-444-0030, filed 12/22/17, effective 1/22/18. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, 74.08A.120 and see WSR 16-07-003, other authority. WSR 16-07-003, § 388-444-0030, filed 3/3/16, effective 4/3/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 7 C.F.R. 273.24. WSR 15-18-042, § 388-444-0030, filed 8/26/15, effective 9/26/15; WSR 14-18-028, § 388-444-0030, filed 8/26/14, effective 9/26/14; WSR 13-17-123, § 388-444-0030, filed 8/21/13, effective 9/21/13; WSR 12-16-025, § 388-444-0030, filed 7/25/12, effective 8/25/12; WSR 11-18-039, § 388-444-0030, filed 8/31/11, effective 10/1/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.515, 74.08.090, 74.08A.120, 74.08A.903, and 7 C.F.R. §§ 273.7 and 273.24. WSR 10-23-112, § 388-444-0030, filed 11/17/10, effective 12/18/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, 74.08A.120, and American Recovery and Reinvest-

ment Act of 2009. WSR 10-13-046, § 388-444-0030, filed 6/9/10, effective 7/10/10; WSR 09-14-018, § 388-444-0030, filed 6/22/09, effective 7/23/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-444-0030, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 21-07-132, filed 3/23/21, effective 4/23/21)

WAC 388-444-0035 Who is exempt from ABAWD time limits and minimum work requirements? Some people who receive basic food are exempt from able-bodied adult without dependents (ABAWD) time limits and minimum work requirements. You are exempt from ABAWD time limits and work requirements under WAC 388-444-0030 if you meet any one or more of the following:

- (1) You are exempt from work requirements under WAC 388-444-0010;
- (2) You are under age ~~((eighteen))~~ 18 or are age:
 - (a) ~~((fifty))~~ 51 or older from September 1, 2023, to September 30, 2023;
 - (b) 53 or older beginning October 1, 2023, through September 30, 2024; and
 - (c) 55 or older beginning October 1, 2024.
- (3) You receive temporary or permanent disability benefits issued by a governmental or private source;
- (4) You are obviously mentally or physically unfit for employment as determined by the department; however, if the unfitness is not obvious, you must provide a statement that you are physically or mentally unfit for employment from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, social worker, or any other medical personnel the department determines appropriate;
- (5) You are an adult in a basic food assistance unit that has a family member who is under the age of ~~((eighteen))~~ 18;
- (6) You are pregnant;
- (7) You are homeless;
- (8) You are a veteran as defined under the James M. Inhofe National Defense Authorization Act of 2023;
- (9) You are 24 or younger, and were:
 - (a) In foster care as defined in RCW 74.13.020 at the time of your 18th birthday; or
 - (b) Under extended foster care services as defined in RCW 74.13.336;
- (10) You live in an area approved as exempt by U.S. Department of Agriculture (USDA); or
- ~~((8))~~ (11) You are eligible for one of the approved exemption slots under the ~~((U.S. Department of Agriculture))~~ USDA ~~((fifteen percent exemption))~~ discretionary exemptions rule.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120 and 7 C.F.R. 273.7, 7 C.F.R. 273.24. WSR 21-07-132, § 388-444-0035, filed 3/23/21, effective 4/23/21. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, 7 C.F.R. 273.7, and SNAP. WSR 16-22-002, § 388-444-0035, filed 10/19/16, effective 11/19/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120,

7 C.F.R. 273.7 and 273.24. WSR 16-04-046, § 388-444-0035, filed 1/27/16, effective 2/27/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.515, 74.08.090, 74.08A.120, 74.08A.903, and 7 C.F.R. §§ 273.7 and 273.24. WSR 10-23-112, § 388-444-0035, filed 11/17/10, effective 12/18/10. Statutory Authority: RCW 74.04.050 and 74.04.510. WSR 03-05-031, § 388-444-0035, filed 2/10/03, effective 4/1/03; WSR 00-04-006, § 388-444-0035, filed 1/20/00, effective 3/1/00. Statutory Authority: RCW 74.04.510. WSR 99-07-024, § 388-444-0035, filed 3/10/99, effective 4/10/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-444-0035, filed 7/31/98, effective 9/1/98.]

WSR 23-18-020

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 25, 2023, 1:08 p.m., effective August 25, 2023, 1:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The employment security department is adopting emergency rules to provide flexibility and relief to claimants and employers who are impacted by the wildfires in Washington and other disasters. These rules address the requirements that an unemployed individual be able and available for work and the requirement that individuals make satisfactory progress in their training to receive training benefits. These rules also address the circumstances when employers can receive relief of benefit charges for individuals who become unemployed due to a catastrophic occurrence.

Citation of Rules Affected by this Order: New WAC 192-100-600; and amending WAC 192-170-010, 192-270-065, and 192-320-078.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010, 50.22.155, 50.29.021.

Other Authority: Governor's Emergency Proclamation 23-05.

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: Per Emergency Proclamation 23-05, Governor Inslee has declared a state of emergency due to "multiple ongoing wildfires in Western, Central and Eastern Washington, and significant wildfire potential is predicted to continue to through the remainder of August, September, and October due to the high risk of fuel conditions capable of producing multiple significant wildfires." Governor Inslee has directed all state agencies to "do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from" these wildfires. Therefore, these rules are necessary to assist unemployed individuals and employers who are impacted by the wildfires and other natural disasters.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, 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 25, 2023.

Joy Adams, Acting Director
Employment System Policy and Integrity Division

OTS-4896.1

NEW SECTION

WAC 192-110-600 Disaster. "Disaster" means an event or set of circumstances which:

(1) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or

(2) Reaches such a dimension or degree of destructiveness as to warrant the proclamation of a state of emergency by the president of the United States, the governor of Washington, or the governor or state executive of another state where the unemployed individual was working or living at the time of the proclamation.

[]

OTS-4897.1

AMENDATORY SECTION (Amending WSR 23-15-009, filed 7/6/23, effective 8/6/23)

WAC 192-170-010 Availability for work—RCW 50.20.010. (1) In general, the department will consider you available for work if you:

(a) Are willing to accept suitable full-time, part-time, and temporary work during the usual hours and days of the week customary for your occupation.

(i) You are not required to accept part-time or temporary work if it would substantially interfere with your return to your regular occupation.

(ii) The requirement to be willing to accept full-time work does not apply under the circumstances described in WAC 192-170-050 (1)(b) or 192-170-070;

(b) Are capable of accepting and reporting for any suitable work within the labor market in which you are seeking work;

(c) Do not impose conditions that substantially reduce or limit your opportunity to return to work at the earliest possible time;

(d) Are available for work for at least 40 hours during the week during the hours customary for your trade or occupation; and

(e) Are physically present in your normal labor market area, unless:

(i) You are actively seeking and willing to accept work outside your normal labor market; or

(ii) You are unable to be physically present in your normal labor market area due to a disaster.

(2) You are considered available for work if you are an active registered electrical apprentice in an approved electrical apprenticeship program under chapter 49.04 RCW and chapter 296-05 WAC.

(3) You are not considered available for work if you fail or refuse to seek work as required in a directive issued by the department under WAC 192-180-010.

(4) If you are physically located outside of the United States, Puerto Rico, or the U.S. Virgin Islands, the department will consider you available for work if you meet the requirements of subsections (1) and (2) of this section, and:

(a) You are legally authorized to work in the country in which you are physically located;

(b) You are immediately available for work in the United States; or

(c) You are a spouse or domestic partner of a member of the United States Armed Forces and you are legally authorized to work within the foreign military base where your spouse or domestic partner is stationed.

(5) (a) During the weeks of a declared public health emergency, an unemployed health care worker described in RCW 50.20.050(3) and 50.29.021 (1)(c)(iii) is considered available for work while isolated or under quarantine as directed by a medical professional, local health official, or the Secretary of Health, if the individual is available for work that:

(i) Will commence after the isolation or quarantine period ends; or

(ii) Can be performed from the individual's home.

(b) For the purposes of this section, a health care worker is defined as an individual who was directly involved in the delivery of health services at a health care facility as defined in RCW 9A.50.010.

(c) For the purposes of this subsection, a week of a declared public health emergency is a week during which a public health emergency has been declared for at least one day.

(6) During the weeks of a public health emergency, an unemployed individual may also meet the requirements of RCW 50.20.010 (1)(c) if:

(a) You are able to perform, available to perform, and actively seeking suitable work which can be performed for an employer from your home; and

(b) You or another individual residing with you is at higher risk of severe illness or death from the disease that is the subject of the public health emergency because the higher risk individual:

(i) Was in an age category that is defined as high risk for the disease that is the subject of the public health emergency by:

(A) The federal Centers for Disease Control and Prevention;

(B) The department of health; or

(C) The equivalent agency in the state where the individual resides; or

(ii) Have an underlying health condition, verified pursuant to WAC 192-170-015, that is identified as a risk factor for the disease that is the subject of the public health emergency by:

(A) The federal Centers for Disease Control and Prevention;

(B) The department of health; or

(C) The equivalent agency in the state where the individual resides.

(c) For the purposes of this subsection, a week of a declared public health emergency is a week during which a public health emergency has been declared for at least one day.

(7) (a) An individual who has been impacted by a disaster may be considered available for work if the individual is available for work that:

(i) Will commence after the individual is no longer impacted by the disaster; or

(ii) Can be performed from the individual's current location.

(b) An individual is impacted by a disaster when they have lost housing, transportation, or another resource critical for accessing employment.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 23-15-009, § 192-170-010, filed 7/6/23, effective 8/6/23. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010(5), 50.20.050(3), 50.29.021 (1)(c)(iii), and 9A.50.010. WSR 22-21-093, § 192-170-010, filed 10/17/22, effective 11/17/22. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 50.20.010 and 50.20.100. WSR 21-16-034, § 192-170-010, filed 7/26/21, effective 1/2/22. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.230, 50.20.240, 50.29.021, 50.29.025 and 50.29.062. WSR 21-12-068, § 192-170-010, filed 5/28/21, effective 6/28/21. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042 and 50.20.010. WSR 20-11-022, § 192-170-010, filed 5/13/20, effective 7/5/20. Statutory Authority: RCW 50.12.010, 50.20.010, 50.20.230, 50.20.240, and 50.12.040. WSR 20-10-056, § 192-170-010, filed 4/30/20, effective 7/5/20. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-170-010, filed 5/12/10, effective 6/12/10.]

OTS-4898.1

AMENDATORY SECTION (Amending WSR 22-13-007, filed 6/2/22, effective 7/3/22)

WAC 192-270-065 Certification of satisfactory progress. (1) In order to continue your eligibility for training benefits, the certification that you are making satisfactory progress in training must be signed by the registrar or an equivalent person designated by your educational institution. Except for dislocated workers eligible under RCW 50.22.155 (2)(a)(i), and disabled individuals as provided in RCW 50.22.155 (2)(c), training must be full-time as determined by the educational institution.

(2) Except as provided in subsection (3), for training benefits purposes the term "satisfactory progress" means:

(a) Your grade point average does not fall below 2.0 for two consecutive terms;

(b) You maintain a grade point average sufficient to graduate from, or receive certification in, your approved area of study; and

(c) You are completing sufficient credit hours to finish your approved course of study within the time frame established under your approved training plan.

(3) In the case of self-paced or ungraded learning programs, "satisfactory progress" means participating in classes and passing certification examinations within the time frame established under your approved training plan.

(4) Reasonable delays directly attributable to an infection from a disease that is the subject of a public health emergency or a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of an infection from a disease that is the subject of a public health emer-

gency will not prevent a certification that you are making satisfactory progress in training.

(5) Reasonable delays directly attributable to a disaster will not prevent a certification that you are making satisfactory progress in training.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.04.030, 50.20.010, 50.20.010 (1) (a), (1) (e) and (1) (c), 50.20.050 (1) (b) (ii) and (2) (b) (ii), and (3), 50.20.240, 50.20.044, 50.22.155 (2) (d), (2) (b) (iv), (2) (b) (i) and (ii), 50.12.220(6), 50.60.030, 50.29.021 (3) (a) (iii), and (5), 50.20.160, 50.20.170, 50.20.190, and 50.20.100. WSR 22-13-007, § 192-270-065, filed 6/2/22, effective 7/3/22. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.22.155(12). WSR 12-09-025, § 192-270-065, filed 4/6/12, effective 7/1/12. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). WSR 01-11-085, § 192-270-065, filed 5/16/01, effective 6/16/01.]

OTS-4899.1

AMENDATORY SECTION (Amending WSR 23-15-009, filed 7/6/23, effective 8/6/23)

WAC 192-320-078 Catastrophic occurrence. For the purposes of RCW 50.29.021 (3) (a) (iii):

(1) "Catastrophic occurrence" includes the presence of any dangerous, contagious, or infectious disease that is the subject of a public health emergency at the employer's plant, building, worksite, or other facility that causes the employer to close or severely curtail operations.

~~((2))~~ In order to qualify for relief of benefit charges, the disease must be the subject of a public health emergency at the time of the closure or curtailment of operations.

(2) "Employer's plant, building, worksite, or other facility" includes any building or worksite where the individual was working, even if that building or worksite is not owned by the employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 23-15-009, § 192-320-078, filed 7/6/23, effective 8/6/23. Statutory Authority: RCW 50.12.010, 50.12.040, 50.04.030, 50.20.010, 50.20.010 (1) (a), (1) (e) and (1) (c), 50.20.050 (1) (b) (ii) and (2) (b) (ii), and (3), 50.20.240, 50.20.044, 50.22.155 (2) (d), (2) (b) (iv), (2) (b) (i) and (ii), 50.12.220(6), 50.60.030, 50.29.021 (3) (a) (iii), and (5), 50.20.160, 50.20.170, 50.20.190, and 50.20.100. WSR 22-13-007, § 192-320-078, filed 6/2/22, effective 7/3/22.]

WSR 23-18-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-179—Filed August 25, 2023, 2:02 p.m., effective August 26, 2023]

Effective Date of Rule: August 26, 2023.

Purpose: The purpose of this emergency rule is to allow retention of wild coho in coastal fisheries (Catch Record Card Areas 1 - 3, and 4 west of the Bonilla-Tatoosh line, and to close salmon fishing east of the Bonilla-Tatoosh line in Area 4).

Citation of Rules Affected by this Order: Repealing WAC 220-313-07500T; 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: This emergency rule is necessary to allow retention of wild coho in recreational ocean salmon fisheries and to close salmon fishing in Catch Record Card Area 4 east of Bonilla-Tatoosh line.

Percentages of adipose marked coho have been lower than expected in ocean salmon fisheries this season. Quotas have been adjusted downward in a manner to ensure that impacts to wild coho are not increased from preseason expected rates and will remain within conservation limits by allowing their retention.

Closure of Area 4 east of the Bonilla-Tatoosh line is needed to provide geographic separation, enhance compliance, and facilitate enforcement of fisheries with different retention rules in Area 4 west of the Bonilla-Tatoosh line and Area 5.

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 25, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-07500U Pacific Ocean salmon—Closed areas. Effective August 26, 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 26, through September 30, 2023:
- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
 - (b) Chinook minimum length 22 inches.
 - (c) Coho minimum length 16 inches.
- (2) **Catch Record Card Area 2:** Open August 26, through September 30, 2023:
- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
 - (b) Chinook minimum length 22 inches.
 - (c) Coho minimum length 16 inches.
 - (d) August 26, 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 26, through September 30, 2023:
 - (i) Daily limit of 2 salmon.
 - (ii) Release 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:** Open August 26, through September 30, 2023:
- (a) Daily limit of 2 salmon.
 - (b) Release chum.
 - (c) Chinook minimum length 24 inches.
 - (d) Coho minimum length 16 inches.
 - (e) Closed in waters east of the Bonilla-Tatoosh line.

[]

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 26, 2023:

WAC 220-313-07500T Pacific Ocean salmon—Seasons—Closed areas. (23-169)

WSR 23-18-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-180—Filed August 25, 2023, 2:07 p.m., effective August 26, 2023]

Effective Date of Rule: August 26, 2023.

Purpose: The purpose of this emergency rule is to make it unlawful to possess or land Chinook or wild coho in Catch Record Card Area 5.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000I; 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 make it unlawful to land or possess Chinook or wild coho in Catch Record Card Area 5 to enhance compliance and facilitate enforcement of fisheries with different retention rules in Areas 4 and 5. This rule also carries forward previously filed changes to salmon seasons, allowing additional pink salmon to be retained as part of the salmon daily limit for Catch Record Card Areas 5, 6, and 7.

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 25, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000J Puget Sound salmon—Saltwater seasons and daily limits. Effective August 26 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:

(a) Effective August 26 through September 30, 2023: Salmon daily limit 2 plus 2 additional pink salmon. Release Chinook, wild coho, and chum. It is unlawful to land or possess Chinook or wild coho.

(b) Waters south of a line from Kydaka Point westerly approximately 4 miles to Shipwreck Point: Salmon: Closed.

(2) Catch Record Card Area 6, except Dungeness Bay (described in WAC 220-313-060(3)):

Effective August 26 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 26 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.

[]

REPEALER

The following section of Washington Administrative Code is repealed, effective August 26, 2023:

WAC 220-313-06000I Puget Sound salmon—Saltwater seasons and daily limits. (23-171)

WSR 23-18-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-178—Filed August 25, 2023, 2:28 p.m., effective August 26, 2023]

Effective Date of Rule: August 26, 2023.

Purpose: This emergency rule is needed to allow the retention of wild coho in the ocean salmon troll fishery.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000Y; 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: This purpose of this regulation is to allow the retention of wild coho in the ocean salmon troll fishery. Percentages of adipose marked coho have been lower than expected in ocean salmon fisheries this season. Quotas have been adjusted downward in a manner to ensure that impacts to wild coho are not increased from preseason expected rates by allowing their retention. 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 25, 2023.

Kelly Susewind
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050 and WAC 220-354-010, effective August 26, 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 26 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 26 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 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) No chum retention north of Cape Alava, WA in August and September.

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

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

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

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

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

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

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

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

(a) Vessels in possession of salmon south of the Queets River may not cross the Queets River line (47°31'42"N. lat.) without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov

with area fished, total Chinook, coho, and halibut catch aboard and destination.

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

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

[]

REPEALER

The following section of the Washington Administrative Code is repealed, effective August 26, 2023:

WAC 220-354-30000Y Coastal salmon troll seasons—
Commercial. (23-165)

WSR 23-18-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-181—Filed August 25, 2023, 4:56 p.m., effective August 26, 2023]

Effective Date of Rule: August 26, 2023.

Purpose: The purpose of this emergency rule is to open purse seine and gillnet fisheries in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A and reefnet fisheries in Area 7.

Citation of Rules Affected by this Order: Amending WAC 220-354-120, 220-354-160, and 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 schedule openings for commercial purse seine and gillnet fisheries in Puget Sound Management and Catch Reporting Areas 7 and 7A and commercial reefnet fisheries in Area 7. Prosecuting these fisheries has 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 3, 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 25, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000X Puget Sound salmon—Purse seine—Open periods. Effective August 26 through August 29, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
7 and 7A	8/26, 8/27, 8/28, 8/29	Open	5 a.m. - 9 p.m.

Release all salmon other than pink salmon.

[]

NEW SECTION

WAC 220-354-16000H Puget Sound salmon—Gillnet—Open periods.

Effective August 26 through August 29, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area(s)	Date(s)	Open/Closed	Daily open period	Minimum mesh size
7 and 7A	8/26, 8/27, 8/28, 8/29	Open	8 a.m. - midnight	6 1/4"

Sockeye must be released.

[]

NEW SECTION

WAC 220-354-18000Z Reef net open periods. Notwithstanding the provisions of WAC 220-354-180, effective August 26 through August 29, 2023, 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:

Area(s)	Date(s)	Open/Closed	Daily open period
7	8/26, 8/27, 8/28, 8/29	Open	5 a.m. - 9 p.m.

(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.

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WSR 23-18-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-184—Filed August 30, 2023, 1:10 p.m., effective August 31, 2023]

Effective Date of Rule: August 31, 2023.

Purpose: The purpose of this rule is to open the commercial salmon fishery in Willapa Bay Salmon Management and Catch Reporting Area 2N on August 31, 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 Area 2N on August 31, 2023. The catch and effort for the Willapa Bay commercial fishery has been lower than preseason predictions. The estimated preseason impacts for natural origin Chinook for statistical weeks 34 and 35 are 69 fish. To date, the fishery has accrued 14 natural origin Chinook impacts, or 20.3 percent, of the preseason prediction for these same weeks. Managers will continue to assess the fishery each opener and make any changes if warranted. All other rules remain in 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 30, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-25000G Willapa Bay salmon fall fishery. Notwithstanding the provisions of WAC 220-354-250, the following seasons for Willapa Bay commercial salmon area 2N on August 31, 2023, shall be modified as described herein. All other provisions of WAC 220-354-250,

not contained herein remain in effect unless otherwise altered by emergency rule:

Gillnet gear may be used to fish for coho salmon, chum salmon, and hatchery Chinook salmon marked with a clipped adipose fin with a healed scar, during dates and times, and in areas listed in the table below:

Area	Time	Date	Maximum Mesh Size
2N	6:00 a.m. through 6:00 p.m.	August 31, 2023	4.25"

[]

WSR 23-18-044

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed August 30, 2023, 1:11 p.m., effective August 30, 2023, 1:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Drinking water state revolving fund loan program, federal Bipartisan Infrastructure Law (BIL) requirements for disadvantaged communities, and loans for lead service line (LSL) identification and replacement.

The department of health (department) is amending sections of chapter 246-296 WAC to redefine the term disadvantaged community, update loan terms, update application requirements, and clarify loan rating and ranking criteria to conform with requirements in BIL. The amendments allow the department to modernize the definition of disadvantaged community, allow for partial or full loan forgiveness for disadvantaged and nondisadvantaged communities, remove water system plan requirements for those systems that are seeking a loan to address LSL identification and replacement, and update priority rating and ranking criteria to allow more water systems to qualify for loans.

Citation of Rules Affected by this Order: Amending WAC 246-296-020, 246-296-050, 246-296-100, and 246-296-130.

Statutory Authority for Adoption: RCW 70A.125.160.

Other Authority: Federal Safe Drinking Water Act, 40 C.F.R. Part 35 Subpart L; and BIL P.L. 117-58.

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

Reasons for this Finding: The rule amendment is necessary for the preservation of the public health, safety, and general welfare of state citizens so that applicants can immediately receive a loan during the current cycle that starts October 1, 2023, which allows for up to full principal forgiveness to communities that qualify as disadvantaged and nondisadvantaged in conformance with the requirements under BIL. This rule amendment increases public health protection by broadening the types of qualifying infrastructure improvements as outlined in BIL, in addition to traditional funding uses such as replacing aging infrastructure, installing treatment to remove regulated contaminants, restructuring failing water systems, and responding to public health emergency events.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, 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 4, Repealed 0.

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

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

Date Adopted: August 30, 2023.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4864.1

AMENDATORY SECTION (Amending WSR 22-07-025, filed 3/9/22, effective 4/9/22)

WAC 246-296-020 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) **"Affordability"** means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.

(2) **"Application"** means the DWSRF loan request form provided by the department.

(3) **"Application package"** means the DWSRF loan application form(s), requirements, terms of assistance, and related information created by the department.

(4) **"Borrower"** means the person that has legal and financial responsibility for the DWSRF loan.

(5) **"Capitalization grant"** means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(6) **"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(7) **"Default"** means failure to meet a financial obligation such as a DWSRF loan payment.

(8) **"Department"** means the Washington state department of health.

(9) **"Disadvantaged community"** means ~~((the service area of a proposed project within a public water system where the project will result in:~~

~~(a) Water rates that are more than one and one-half percent of the MHI of the service area; or~~

~~(b) Restructuring, when one or more public water systems are having financial difficulties))~~ a qualifying service area of a project serving residential connections within a public water system that is disproportionately impacted by economic, health, and environmental

burdens. Potential qualifying areas will be assessed by indicators established in state guidance including population served, social vulnerability, environmental health disparities, and affordability of average annual water charges.

(10) "**DWSRF (drinking water state revolving fund)**" means the program that meets the requirements of RCW 70A.125.160 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(11) "**DWSRF loan**" means an agreement between the department and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(12) "**DWSRF loan fee**" means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(13) "**Ecology**" means the Washington state department of ecology.

(14) "**Eligible public water system**" means a Group A community public water system, either privately or publicly owned, or a non-profit Group A noncommunity public water system.

(15) "**Emergency**" means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

(16) "**EPA**" means the United States Environmental Protection Agency.

(17) "**Green project**" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

(18) "**Group A public water system**" is defined and referenced under WAC 246-290-020.

(19) "**Group B public water system**" means a public water system that is not a Group A public water system and is defined and referenced under WAC 246-291-005.

(20) "**Individual water supply system**" means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

(21) "**IUP (intended use plan)**" means the federally required document prepared each year by the department identifying the intended

uses of the DWSRF funds and describing how those uses support the DWSRF goals.

(22) "**Loan closeout**" means a loan agreement is complete when the loan is repaid in full.

(23) "**MHI (median household income)**" means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

(24) "**Multiple benefit**" means projects that address more than one type of health risk.

(25) "**Municipality**" means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

(26) "**NEPA**" means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

(27) "**Nonprofit organization**" means an entity that has a federal tax exempt status identification number.

(28) "**Owner**" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

(29) "**Person**" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(30) "**Principal forgiveness**" means that a reduction of a percentage of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

(31) "**Project report**" means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

(32) "**Public water system**" is defined and referenced under WAC 246-290-020.

(33) "**Receivership**" means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

(34) "**Regional benefit**" means project improvements that affect more than one public water system.

(35) "**Restructuring**" means changing public water system ownership including, but not limited to:

(a) Consolidation of two or more existing public water systems into a single public water system;

(b) Transfer of ownership; or

(c) Receivership.

(36) "**SDWA (Safe Drinking Water Act)**" means Public Law 93-523, including all amendments.

(37) "**SEPA**" means the State Environmental Policy Act under chapter 43.21C RCW.

(38) "**Set-aside**" means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

(39) "**SERP (state environmental review process)**" means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

(40) "**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

(41) "**Sustainable**" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

(42) "**SWSMP (small water system management program)**" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

(43) "**System capacity**" means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

(44) "**Transfer of ownership**" means to change legal ownership of a public water system from one person to another.

(45) "**Water right**" means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

(46) "**WFI (water facilities inventory)**" means a department form summarizing a public water system's characteristics.

(47) "**WSP (water system plan)**" means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

[Statutory Authority: RCW 43.70.040 and 2020 c 20. WSR 22-07-025, § 246-296-020, filed 3/9/22, effective 4/9/22. Statutory Authority: RCW 70.119A.170 as amended by 2016 c 111. WSR 16-14-086, § 246-296-020, filed 7/5/16, effective 8/5/16. Statutory Authority: RCW 70.119A.170. WSR 16-06-100, § 246-296-020, filed 3/1/16, effective 4/1/16. Statutory Authority: RCW 70.119A.170 and Federal Safe Drinking Water Act, H.R. 1452. WSR 12-01-077, § 246-296-020, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW 70.119A.170. WSR 01-21-137, § 246-296-020, filed 10/24/01, effective 11/24/01.]

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-050 DWSRF loan terms. (1) The department may approve a DWSRF loan for a project that will not serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate at or below market interest rates for a maximum of (~~twenty~~) 20 years from project completion.

(2) The department may approve a DWSRF loan for a project that will serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate set at or below market interest rates for up to (~~thirty~~) 30 years, as long as the DWSRF loan does not exceed the useful life of the project(~~+~~

~~(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or~~
~~(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan).~~

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

[Statutory Authority: RCW 70.119A.170 as amended by 2016 c 111. WSR 16-14-086, § 246-296-050, filed 7/5/16, effective 8/5/16. Statutory Authority: RCW 70.119A.170. WSR 16-06-100, § 246-296-050, filed 3/1/16, effective 4/1/16. Statutory Authority: RCW 70.119A.170 and Federal Safe Drinking Water Act, H.R. 1452. WSR 12-01-077, § 246-296-050, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW 70.119A.170. WSR 01-21-137, § 246-296-050, filed 10/24/01, effective 11/24/01.]

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-100 DWSRF loan eligibility and application requirements. To be eligible for a DWSRF loan, an applicant shall:

(1) Document that the public water system has the system capacity to stay in compliance with applicable federal, state, and local drinking water requirements, unless:

(a) The funding will bring the public water system into compliance; and

(b) The owner of the public water system agrees to reasonable and appropriate changes to stay in compliance.

(2) ~~((Before))~~ Except when applying for a DWSRF loan((7)) that addresses lead service line identification or lead service line replacements, the applicant shall have a current department-approved WSP or SWSMP that:

(a) Includes the proposed project; and

(b) Addresses any difficulties with system capacity;

(3) Comply with federal, state, and local drinking water requirements or a variance under WAC 246-290-060, unless the DWSRF loan will fund projects that result in public water system compliance;

(4) Comply with any department or EPA orders;

(5) Install a source meter on each source if meters are not already installed;

(6) Install service meters on all service connections if meters are not already installed within the project area, unless:

(a) The project is for a transient noncommunity public water system;

(b) The project is for a mobile home park with a source or master meter;

- (c) The project is for an apartment building or complex with a source or master meter; or
- (d) The department determines that installing meters is:
 - (i) Prohibitive for the DWSRF project as a whole; and
 - (ii) Waiving the meter requirement is necessary to award a DWSRF loan for a project to resolve high priority public health problems.
- (7) Have no outstanding fees or penalties owed to the department.
- (8) Provide documentation that the project has sufficient water rights as determined by ecology.
- (9) Comply with the requirements of WAC 246-296-120(1).

[Statutory Authority: RCW 70.119A.170 and Federal Safe Drinking Water Act, H.R. 1452. WSR 12-01-077, § 246-296-100, filed 12/19/11, effective 2/1/12. Statutory Authority: RCW 70.119A.170. WSR 01-21-137, § 246-296-100, filed 10/24/01, effective 11/24/01.]

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-130 Project priority rating and ranking criteria.

The department shall, at a minimum, consider the following to assign points, and rate and rank proposed projects:

- (1) Criteria for risk categories and points based on:
 - (a) Type and significance of public health problems the project will resolve;
 - (b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water requirements;
 - (c) Current compliance status; and
 - (d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system.
- (2) Additional points based on the type of project being proposed, if the project:
 - (a) Is ready to proceed to construction;
 - (b) Completes projects previously funded by DWSRF grants or loans;
 - (c) Is to consolidate or restructure a public water system;
 - ~~((b))~~ (d) Creates a sustainable regional public health benefit;
 - ~~((c) Has multiple benefits that are sustainable;~~
 - ~~(d) Is consistent with the Growth Management Act;~~
 - ~~(e) Is financially sustainable;~~
 - (e) Is a water main replacement project that coincides with other infrastructure projects;
 - (f) Qualifies as a green project; or
 - (g) ~~((Serves a disadvantaged community; or~~
 - ~~(h) Results in service meters on existing services not currently metered))~~ Has an affordability index equal to or greater than one percent.

[Statutory Authority: RCW 70.119A.170 as amended by 2016 c 111. WSR 16-14-086, § 246-296-130, filed 7/5/16, effective 8/5/16. Statutory Authority: RCW 70.119A.170 and Federal Safe Drinking Water Act, H.R. 1452. WSR 12-01-077, § 246-296-130, filed 12/19/11, effective 2/1/12.]

Statutory Authority: RCW 70.119A.170. WSR 01-21-137, § 246-296-130,
filed 10/24/01, effective 11/24/01.]

WSR 23-18-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-185—Filed August 30, 2023, 5:40 p.m., effective August 30, 2023, 5:40 p.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 220-359-02000V; and amending WAC 220-359-020.

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

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

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

Reasons for this Finding: This rule extends 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, August 16, and August 30, 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 30, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000W 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: Immediately, through 6:00 PM September 1, 2023, and 6:00 AM September 4 through 6:00 PM September 8, 2023:

(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 typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000V Columbia River salmon seasons above Bonneville Dam. (23-168)

WSR 23-18-052

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed August 30, 2023, 9:31 a.m., effective August 30, 2023, 9:31 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Home care aide and nursing assistant-certified alternate certification time frames.

The department of health (department) is establishing alternate certification time frames for individuals working toward certification as a home care aide or nursing assistant-certified (NA-C). This includes amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065 and adopting new WAC 246-980-011. Due to impacts from the coronavirus disease 2019 (COVID-19) pandemic, many long-term care workers are unable to obtain training and certification as home care aides or NA-Cs within statutory time frames. By continuing alternate time frames established under ESHB 1120 (chapter 203, Laws of 2021), the department will allow workers impacted by the pandemic more time to complete requirements while training, testing, and credentialing capacity issues are being resolved.

These emergency rules continue emergency rules filed January 12, 2023, under WSR 23-03-066 and continued May 12, 2023, under WSR 23-11-053. These rules established alternate certification time frames for two different groups of long-term care workers: Individuals working toward certification as a home care aide and individuals working toward certification as an NA-C. The rule language for this extension is the same as the most recent filing, except that the dates of the alternate time frames have been updated to reflect ongoing training, testing, and certification challenges. Rules impacting home care aides were developed in collaboration with the department of social and health services (DSHS), while rules impacting NA-Cs were developed in collaboration with DSHS and the Washington state board of nursing (WABON), formerly known as the nursing care quality assurance commission (NCQAC).

New rule WAC 246-980-011 establishes alternate time frames for long-term care workers seeking certification as a home care aide or NA-C.

Amendments to WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065 create cross-references to WAC 246-980-011 and, where applicable, to DSHS rules that establish alternate time frames for training and testing.

Citation of Rules Affected by this Order: New WAC 246-980-011; amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065.

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

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

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

During the COVID-19 pandemic, both training and testing were unavailable for several months in 2020 before resuming at limited capacity. This created a large backlog of long-term care workers unable

to become certified as a home care aide or NA-C within statutory time frames. During the COVID-19 declared emergency, thousands of workers seeking certification were allowed to continue working under Governor's Proclamations 20-52 and 20-65 (waivers), which waived credentialing requirements. Now that the waivers have been rescinded, however, uncertified workers will no longer be able to work and will still be unable to readily access the training and testing necessary for certification. Losing these workers would exacerbate the existing workforce shortage, forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings.

ESHB 1120, passed in 2021, gives the department authority to allow long-term care workers additional time to become certified if a pandemic or other declared state of emergency impacts their ability to complete certification timely. Pursuant to ESHB 1120, the department collaborated with DSHS and WABON to develop alternate, extended time frames for long-term care workers seeking certification as a home care aide or NA-C. These alternate time frames create a path to certification for uncertified home care aides and NA-Cs and allow workers to continue caring for clients while the testing and training backlog is being resolved.

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 4, 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 4, Repealed 0.

Date Adopted: August 31, 2023.

Kristin Peterson
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-3558.9

NEW SECTION

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

Hired or rehired during the time frame of:	Shall be certified no later than:
August 17, 2019, to September 30, 2020	January 31, 2024
October 1, 2020, to April 30, 2021	April 30, 2024
May 1, 2021, to March 31, 2022	July 31, 2024
April 1, 2022, to September 30, 2022	October 31, 2024
October 1, 2022, to June 30, 2023	January 31, 2025
July 1, 2023, to January 31, 2024	April 30, 2025
Beginning February 1, 2024	Standard training

The above chart provides additional time for a long-term care worker to be certified, as either a home care aide or nursing assistant.

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

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

(4) Nothing in this section prevents a long-term care worker hired between August 17, 2019, and September 30, 2022, from completing training or obtaining certification in advance of the deadlines stipulated in subsection (1) of this section.

[]

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

WAC 246-980-025 Individuals exempt from obtaining a home care aide certification. (1) The following individuals are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the entry level training required by RCW 74.39A.074 and meet the requirements of WAC 246-980-040 (1)(b) and (c).

(a) An individual provider caring only for a biological, step, or adoptive child or parent.

(b) An individual provider who provides (~~twenty~~) 20 hours or less of care for one person in any calendar month.

(c) An individual employed by a community residential service business.

(d) An individual employed by a residential habilitation center licensed under chapter 71A.20 RCW or a facility certified under 42 C.F.R. Part 483.

(e) A direct care worker who is not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(f) A person working as an individual provider who only provides respite services and works less than (~~three hundred~~) 300 hours in any calendar year.

(g) Any direct care worker exempt under RCW 18.88B.041(1).

(2) The following long-term care workers are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must meet the requirements of WAC 246-980-040 (1)(b) and (c). The training requirements under RCW 74.39A.074(1) are not required.

(a) An individual who holds an active credential by the department as a:

(i) Registered nurse, a licensed practical nurse, or advanced registered nurse practitioner under chapter 18.79 RCW; or

(ii) Nursing assistant-certified under chapter 18.88A RCW.

(b) 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. Part 484.36.

(c) A person who is in an approved training program for certified nursing assistant under chapter 18.88A RCW, provided that the training program is completed within (~~one hundred twenty~~) 120 calendar days of the date of hire and that the nursing assistant-certified credential has been issued within (~~two hundred~~) 200 calendar days of the date of hire, or that the training and certification are completed in compliance with the deadlines in WAC 246-980-011.

(d) An individual with special education training and an endorsement granted by the superintendent of public instruction under RCW 28A.300.010 and is approved by the secretary.

(e) An individual employed as a long-term care worker on January 6, 2012, or who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, and who completed all of the training requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for three consecutive years.

(i) The department may require the exempt long-term care worker who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, to provide proof of that employment. Proof may include a letter or similar documentation from the employer that hired the long-term care worker between January 1, 2011, and January 6, 2012, indicating the first and last day of employment, the job title, a job description, and proof of completing training requirements. Proof of training will also be accepted directly from the approved instructor or training program, if applicable.

(ii) For an individual provider reimbursed by the department of social and health services, the department will accept verification from the department of social and health services or the training partnership.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-025, filed 9/28/18, effective 10/29/18.]

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

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

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

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

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

(a) The long-term care worker does not successfully complete all of the training required by RCW 74.39A.074(1) within (~~one hundred twenty calendar days from their date of hire~~) the timelines in WAC 388-71-0876 or 388-112A-0081;

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

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

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

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

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

(a) Successfully complete all training required by RCW 74.39A.074(1) within (~~one hundred twenty calendar days of the date of hire as a long-term care worker~~) the timelines in WAC 388-71-0876 or 388-112A-0081;

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

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

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

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

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

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

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

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

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

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

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

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

(a) A request for a provisional certification; and

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

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

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

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

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

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

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

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

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

WSR 23-18-064
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Board of Nursing)

[Filed September 1, 2023, 9:12 a.m., effective September 1, 2023, 9:12 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Out-of-state nursing school requirements for licensure. The Washington state board of nursing (board), formally known as the nursing care quality assurance commission is amending WAC 246-840-030 and 246-840-090 to clarify licensure requirements for registered nursing (RN) and licensed practical nursing (LPN) applicants applying for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, and applicants applying via interstate endorsement.

The board is engaged in permanent rule making to adopt these emergency amendments as permanent rules. Transition from emergency to permanent rules was approved by the board and a notice of intent to begin rule making was filed on May 24, 2023, under WSR 23-11-143.

This is the second emergency rule, previously adopted as WSR 23-11-015 on May 5, 2023. The amendments remain the same as the previous filing.

The rules as currently written state that a nurse who has graduated from another state's approved nursing program or from a substantially equivalent program may be licensed in Washington. The board became aware that certain nursing programs in Florida and elsewhere had fraudulent programs that did not meet the educational standards of any state. The emergency rule language clarifies the board's authority to protect the people of Washington by only licensing qualified, properly trained nurses who meet minimum educational standards.

These emergency rules clarify that RN and LPN applicants, applying for licensure via interstate endorsement or for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, must successfully complete a nursing education program in another state, which is approved by the nursing board in that state and substantially meets requirements for nursing education approved in Washington state. The amendments also reaffirm that the board retains the authority to evaluate and determine the sufficiency of academic preparation for all applicants. These amendments are preliminary steps to future permanent rule amendments and clarification identified by the board's licensing subcommittee.

Citation of Rules Affected by this Order: Amending WAC 246-840-030 and 246-840-090.

Statutory Authority for Adoption: RCW 18.79.110.

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 these rules is necessary for the preservation of the public health, safety, and general welfare and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. Adoption of emergency rules described above is necessary to ensure nurses working in Washington state meet minimum

standards for safe practice. This emergency rule will be refiled every 120 days until permanent rule making is completed.

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 2, Repealed 0.

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

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

Date [Adopted]: September 1, 2023.

Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director

OTS-4435.1

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-030 Initial licensure for registered nurses and practical nurses—Out-of-state traditional nursing education program approved by another United States nursing board. Registered nursing and practical nursing applicants educated in a traditional nursing education program approved by another United States nursing board and applying for initial licensure must:

(1) Successfully complete a (~~board approved~~) nursing education program in another U.S. state, which:

(a) Is approved by the nursing board in that state; and

(b) Substantially meets requirements for nursing education approved in Washington state. The commission retains authority to evaluate and determine the sufficiency of academic preparation for all applicants.

(2) Applicants from a board approved registered nurse program who are applying for a practical nurse license:

(a) Complete all course work required of board approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.

(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.

~~((2))~~ (3) Successfully pass the commission approved licensure examination as provided in WAC 246-840-050.

~~((3))~~ (4) Submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the commission. The transcript must include course names and credits accepted from other programs. The transcript must show:

(i) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or

(ii) That the applicant has completed all course work required in a commission approved practical nurse program as listed in WAC 246-840-575(2).

(c) Applicants from a board approved registered nurse program who are applying for a practical nurse license must also submit an attestation sent from the nurse administrator of the applicant's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.

[Statutory Authority: RCW 18.79.110, 18.88A.060 and 2020 c 76. WSR 21-04-016, § 246-840-030, filed 1/22/21, effective 2/22/21. Statutory Authority: RCW 18.79.110. WSR 08-11-019, § 246-840-030, filed 5/12/08, effective 6/12/08. Statutory Authority: Chapter 18.79 RCW. WSR 99-01-098, § 246-840-030, filed 12/17/98, effective 1/17/99. Statutory Authority: RCW 18.79.160. WSR 97-17-015, § 246-840-030, filed 8/8/97, effective 9/8/97.]

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-090 Licensure for nurses by interstate endorsement.

Registered nurse and practical nurse applicants for interstate endorsement may be issued a license without examination provided the applicant meets the following requirements:

(1) The applicant graduated and holds a degree from:

(a) A commission or state board approved program preparing candidates for licensure as a nurse, which substantially meets requirements for nursing education approved in Washington state, as determined by the commission; or

(b) A nursing program that is equivalent to commission approved nursing education in Washington state at the time of graduation as determined by the commission.

(2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory and successfully completes a commission-approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the commission to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

(3) The applicant was originally licensed to practice as a nurse in another state or territory after passing the National Council Licensure Examination (NCLEX).

(4) Applicants graduating from nursing programs outside the U.S. must demonstrate English proficiency by passing a commission approved English proficiency test if the nursing education is not in one of the

following countries: Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands, or complete (~~(one thousand)~~) 1,000 hours of employment as a licensed nurse in another state, or provide evidence directly from the school of earning a high school diploma or college degree from a United States institution.

The (~~(one thousand)~~) 1,000 hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.

(5) For RNs: If the applicant is a graduate of a nontraditional nursing education program and:

(a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit evidence of (~~(two hundred)~~) 200 hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least (~~(one thousand)~~) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit evidence of at least (~~(one thousand)~~) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(6) Applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the commission if the education cannot be verified from the original board of nursing, or commission-approved evaluation agency.

(i) The transcript must contain adequate documentation demonstrating that the applicant graduated from an approved nursing program or successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.

(ii) The transcripts shall include course names and credits accepted from other programs.

(c) Verification of an original registered or practical nurse license from the state or territory of original licensure. The verification must identify that issuance of the original licensure included passing the NCLEX.

(d) For applicants educated outside the United States and in territories or countries not listed in subsection (4) of this section, successful results of a commission approved English proficiency exam, or, evidence of (~~(one thousand)~~) 1,000 hours worked as a nurse.

(e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:

(i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit documentation of (~~(two hundred)~~) 200 hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035 or at least (~~(one thousand)~~) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant must submit documentation of at least (~~(one thousand)~~) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

[Statutory Authority: RCW 18.79.110, 18.88A.060 and 2020 c 76. WSR 21-04-016, § 246-840-090, filed 1/22/21, effective 2/22/21. Statutory Authority: RCW 18.79.010, 18.79.110, 18.79.150, 18.79.190, and 18.79.240. WSR 16-17-082, § 246-840-090, filed 8/17/16, effective 9/17/16. Statutory Authority: RCW 18.79.110. WSR 08-11-019, § 246-840-090, filed 5/12/08, effective 6/12/08; WSR 99-13-086, § 246-840-090, filed 6/14/99, effective 7/15/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-840-090, filed 2/13/98, effective 3/16/98. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-090, filed 6/18/97, effective 7/19/97.]

WSR 23-18-066
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Board of Nursing)

[Filed September 1, 2023, 9:17 a.m., effective September 1, 2023, 9:17 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending specific training requirements for nursing assistant registered (NAR) and home care aides (HCA) in WAC 246-840-930 and 246-841-405.

This is the sixth emergency rule and continues the initial emergency rules filed as WSR 22-07-046 on March 14, 2022, and continued under WSR 22-15-020, 22-19-006, 23-03-014, and 23-11-016. The amendments remain the same as the previous filing.

The Washington state board of nursing (board), formerly known as the nursing care quality assurance commission, is refileing these emergency rules to allow a registered nurse delegator to continue delegating nursing tasks to an NAR or HCA, although the NAR or HCA did not complete required training due to department of social and health services (DSHS) training backlogs. The emergency rules state that NARs and HCAs must complete required training "by dates established by the department of social and health services" to avoid future WAC reference changes when refileing.

NARs and HCAs must complete basic caregiver training as part of their licensure requirements. DSHS provides this training, but was unable to do so because all training and testing sites were closed during the coronavirus disease 2019 (COVID-19) pandemic. DSHS is currently experiencing significant delays due to the backlog of those needing the training. Dates by which training must be completed depending on hire date have been extended through January 2024.

Citation of Rules Affected by this Order: Amending WAC 246-840-930 and 246-841-405.

Statutory Authority for Adoption: RCW 18.79.110 and 18.88A.060.

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

Reasons for this Finding: The immediate amendment of existing rules is necessary for the preservation of public health, safety, and general welfare. DSHS is responsible for providing basic caregiver training for NARs and HCAs. Due to impacts on training caused by COVID-19, DSHS was not able to provide basic caregiver training for NARs and HCAs for a period of time. Board emergency rules starting in April 2020 allowed NARs and HCAs to work without the required training. DSHS has since filed emergency and permanent rules that outline the dates by which HCAs and NARs must complete basic caregiver training dependent on hire and rehire dates.

Board rules need to align with DSHS rules to assure [ensure] NARs and HCAs can continue to provide necessary health care to patients. This emergency rule will be refiled every 120 days until such time that DSHS can resume its standard training schedule.

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

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

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

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

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

Date [Adopted]: September 1, 2023.

Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director

OTS-3966.3

AMENDATORY SECTION (Amending WSR 22-12-026, filed 5/23/22, effective 9/9/22)

WAC 246-840-930 Criteria for delegation. (1) Before delegating a nursing task, the registered nurse delegator decides the task is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE.

ASSESS

(2) The setting allows delegation because it is a community-based care setting as defined by RCW 18.79.260 (3) (e) (i) or an in-home care setting as defined by RCW 18.79.260 (3) (e) (ii).

(3) Assess the patient's nursing care needs and determine the patient's condition is stable and predictable. A patient may be stable and predictable with an order for sliding scale insulin or terminal condition.

(4) Determine the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine the task to be delegated can be properly and safely performed by the nursing assistant or home care aide. The registered nurse delegator assesses the potential risk of harm for the individual patient.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant or home care aide to competently accomplish the task. The registered nurse delegator identifies and facilitates any additional training of the nursing assistant or home care aide needed prior to delegation. The registered nurse delegator ensures the task to be delegated can be properly and safely performed by the nursing assistant or home care aide.

(7) Assess the level of interaction required. Consider language or cultural diversity affecting communication or the ability to accomplish the task and to facilitate the interaction.

(8) Verify that the nursing assistant or home care aide:

(a) Is currently registered or certified as a nursing assistant or home care aide in Washington state without restriction;

(b) Has completed both the basic caregiver training in accordance with dates established by the department of social and health serv-

ices, and core delegation training before performing any delegated task;

(c) Has evidence as required by the department of social and health services of successful completion of nurse delegation core training;

(d) Has evidence as required by the department of social and health services of successful completion of nurse delegation special focus on diabetes training when providing insulin injections to a diabetic client; and

(e) Is willing and able to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant or home care aide to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse:

(a) Discusses the delegation process with the patient or authorized representative, including the level of training of the nursing assistant or home care aide delivering care.

(b) Obtains written consent. The patient, or authorized representative, must give written consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within 30 days; electronic consent is an acceptable format. Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse, nursing assistant, or home care aide will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant or home care aide with a copy maintained in the patient's record that includes:

(a) The rationale for delegating the nursing task;

(b) The delegated nursing task is specific to one patient and is not transferable to another patient;

(c) The delegated nursing task is specific to one nursing assistant or one home care aide and is not transferable to another nursing assistant or home care aide;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

- (i) How to notify the registered nurse delegator of the change;
 - (ii) The process the registered nurse delegator uses to obtain verification from the health care provider of the change in the medical order; and
 - (iii) The process to notify the nursing assistant or home care aide of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;
 - (k) How to document the task in the patient's record;
 - (l) Document teaching done and a return demonstration, or other method for verification of competency; and
 - (m) Supervision shall occur at least every 90 days. With delegation of insulin injections, the supervision occurs at least weekly for the first four weeks, and may be more frequent.
- (13) The administration of medications may be delegated at the discretion of the registered nurse delegator, including insulin injections. Any other injection (intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise) is prohibited. The registered nurse delegator provides to the nursing assistant or home care aide written directions specific to an individual patient.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant or home care aide how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator monitors the performance of the task(s) to assure compliance with established standards of practice, policies and procedures and appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator evaluates the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator supervises and evaluates the performance of the nursing assistant or home care aide, including direct observation or other method of verification of competency of the nursing assistant or home care aide. The registered nurse delegator reevaluates the patient's condition, the care provided to the patient, the capability of the nursing assistant or home care aide, the outcome of the task, and any problems.

(18) The registered nurse delegator ensures safe and effective services are provided. Reevaluation and documentation occur at least every 90 days. Frequency of supervision is at the discretion of the registered nurse delegator and may be more often based upon nursing assessment.

(19) The registered nurse must supervise and evaluate the performance of the nursing assistant or home care aide with delegated insulin injection authority at least weekly for the first four weeks. After the first four weeks the supervision shall occur at least every 90 days.

[Statutory Authority: RCW 18.79.010, 18.79.110, and 18.79.260. WSR 22-12-026, § 246-840-930, filed 5/23/22, effective 9/9/22. Statutory Authority: RCW 18.79.110, 18.79.260, 2012 c 164, and 2012 c 10. WSR 13-15-063, § 246-840-930, filed 7/15/13, effective 8/15/13. Statutory Authority: RCW 18.79.110, 18.79.260, 18.88A060 [18.88A.060], and

18.88A.210. WSR 09-06-006, § 246-840-930, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 18.79.110, 18.79.260 (3) (f), 18.88A.210, 2003 c 140. WSR 04-14-065, § 246-840-930, filed 7/2/04, effective 7/2/04. Statutory Authority: Chapters 18.79 and 18.88A RCW. WSR 02-02-047, § 246-840-930, filed 12/27/01, effective 1/27/02. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-930, filed 6/18/97, effective 7/19/97; WSR 96-05-060, § 246-840-930, filed 2/19/96, effective 3/21/96.]

OTS-3665.4

AMENDATORY SECTION (Amending WSR 09-06-006, filed 2/18/09, effective 3/21/09)

WAC 246-841-405 Nursing assistant delegation. Provision for delegation of certain tasks.

(1) Nursing assistants perform tasks delegated by a registered nurse for patients in community-based care settings or in-home care settings each as defined in RCW 18.79.260 (3) (e).

(2) Before performing any delegated task:

(a) Nursing assistants-registered must show ((the certificate of)) evidence as required by the department of social and health services of successful completion of both the basic caregiver training and the designated nurse delegation core ((delegation)) training from the department of social and health services to the registered nurse delegator. Nursing assistants-registered who were working or hired during the COVID-19 public health emergency must complete basic caregiver training by dates established by the department of social and health services.

(b) Nursing assistants-certified must show ((the certificate of)) evidence as required by the department of social and health services of successful completion of the core delegation training from the department of social and health services to the registered nurse delegator. Nursing assistants-certified who were working or hired during the COVID-19 public health emergency must complete basic caregiver training by dates established by the department of social and health services.

(c) All nursing assistants must comply with all applicable requirements of the nursing care quality assurance commission in WAC 246-840-910 through 246-840-970.

(d) All nursing assistants, registered and certified, who may be completing insulin injections must ((give a certificate of completion of diabetic training from the department of social and health services)) show evidence as required by the department of social and health services of successful completion of nurse delegation special focus on diabetes training to the registered nurse delegator.

(e) All nursing assistants must meet any additional training requirements identified by the nursing care quality assurance commission. Any exceptions to additional training requirements must comply with RCW 18.79.260 (3) (e) (v).

(3) Delegated nursing care tasks described in this section are:

(a) Only for the specific patient receiving delegation;

(b) Only with the patient's consent; and

(c) In compliance with all applicable requirements in WAC 246-840-910 through 246-840-970.

(4) A nursing assistant may consent or refuse to consent to perform a delegated nursing care task. The nursing assistant is responsible for their own actions with the decision to consent or refuse to consent and the performance of the delegated nursing care task.

(5) Nursing assistants shall not accept delegation of, or perform, the following nursing care tasks:

- (a) Administration of medication by injection, with the exception of insulin injections;
- (b) Sterile procedures;
- (c) Central line maintenance;
- (d) Acts that require nursing judgment.

[Statutory Authority: RCW 18.79.110, 18.79.260, 18.88A060 [18.88A.060], and 18.88A.210. WSR 09-06-006, § 246-841-405, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 18.88A.060 and 2003 c 140. WSR 04-14-064, § 246-841-405, filed 7/2/04, effective 7/2/04. Statutory Authority: Chapter 18.88A RCW. WSR 96-06-029, § 246-841-405, filed 2/28/96, effective 3/30/96.]

WSR 23-18-067
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Board of Nursing)

[Filed September 1, 2023, 9:26 a.m., effective September 1, 2023, 9:26 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending specific training requirements for nursing assistant certified (NAC) and nursing assistant registered (NAR) in WAC 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510, and 246-841-555.

The Washington state board of nursing (board), formerly known as the nursing care quality assurance commission, is engaged in permanent rule making to adopt these emergency amendments as permanent rules. Transition from emergency to permanent rules was approved by the board, and a notice of intent to begin rule making was filed on February 8, 2021, under WSR 21-05-021. The board filed a proposed rule-making notice on July 18, 2023, as WSR 23-15-091.

This is the 11th emergency rule originally adopted as WSR 20-14-066 beginning in June 2020 continuing under WSR 20-22-023, 21-04-004, 21-12-011, 21-19-091, 22-03-055, 22-11-049, 22-19-00[7], 23-03-010, and 23-11-017. The amendments remain the same as the previous filing.

The rules in chapter 246-841 WAC provide regulatory requirements for NACs and NARs. These emergency rules allow additional pathways to complete necessary training to enter the workforce.

This filing is the same as the previous filing on May 5, 2023, which:

- Allows the board to conduct online surveys of online classes approved by the board;
- Provides guidance for documenting and demonstrating NAR competency;
- Allows program directors to award clinical hours for NAR work according to established protocol;
- Addresses the physical resources required for planned simulation in a skills lab;
- Removes the online website address for the department of health from WAC 246-841-470, 246-841-510, and 246-841-555; and
- Provides instructions for documenting NAR work hours to allow clinical credit.

Citation of Rules Affected by this Order: Amending WAC 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510, and 246-841-555.

Statutory Authority for Adoption: RCW 18.88A.060.

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

Reasons for this Finding: The immediate amendment of existing rules is necessary for the preservation of public health, safety, and general welfare. Continued demand for health care professionals, especially qualified nursing assistants, and barriers to nursing assistant training impacts the inflow of a needed health care workforce. COVID-19 impacted nursing assistant training by delaying access to clinical

cal training due to restrictions on in-person training opportunities. Emergency amendments allow program directors to award clinical hours for NAR work, NAR volunteer experiences, and planned simulation. Awarding clinical practice hours for these pathways allows additional opportunities for NAC students to complete training and enter the workforce. Emergency amendments to the current language allow the board to survey online classroom settings, which is essential to ensure that appropriate training is being provided. These emergency amendments ensure that programs have adequate resources to implement these new allowances and that they document all related activities appropriately. All these actions will result in increasing the quantity of health care professionals able to respond to current demands. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests. The board is engaged in permanent rule making to consider adopting a number of these emergency amendments as permanent rules. A notice of intent to begin rule making was filed on February 8, 2021, under WSR 21-05-021. The board recently approved the draft proposed rule language at their March 10, 2023, business meeting and filed a CR-102 on July 18, 2023, as WSR 23-15-091. The hearing is set for August 30, 2023.

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 6, 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 6, Repealed 0.

Date [Adopted]: September 1, 2023.

Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director

OTS-2953.8

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-420 Requirements for approval of nursing assistant-certified training programs. To qualify as a nursing assistant-certified training program, an institution or facility must:

(1) Submit a completed application packet provided by the department of health. The packet will include forms and instructions to submit the following:

- (a) Program objectives.
- (b) Curriculum content outline.

(c) Qualifications of program director and additional instructional staff.

(d) Contractual agreements related to providing this training. For any program that uses another facility to provide clinical training, this includes an affiliation agreement between the training program and the facility. The affiliation agreement must describe how the program will provide clinical experience in the facility. The agreement must specify the rights and responsibilities of both parties, students and clients or residents.

(e) Sample lesson plan for one unit.

(f) Skills checklist.

(g) Description of classroom facilities.

(h) Declaration of compliance with administrative guidelines signed by the program director.

(i) Verification that the program director has completed a course on adult instruction as required by WAC 246-841-470(3) or has one year of experience in the past three years teaching adults. Acceptable experience does not include in-service education or patient teaching. A program director working exclusively in a postsecondary educational setting is exempt from this requirement.

(j) Verification that the nursing assistant-certified training program or school is approved to operate in the state of Washington by:

(i) The state board for community and technical colleges;

(ii) The superintendent of public instruction; or

(iii) The workforce training and education coordinating board.

(2) Agree to on-site survey of the training program(~~(7)~~) or on-line survey of the approved online classes as requested by the commission. This on-site will be coordinated with other on-site review requirements when possible.

(3) Participate in the renewal process every two years. Failure to renew results in automatic withdrawal of approval of the program.

(4) Comply with any changes in training standards and guidelines in order to maintain approved status.

(5) Notify the commission and any other approving agency of any changes in overall curriculum plan or major curriculum content changes prior to implementation.

(6) Notify the commission and any other approving agency of changes in program director or instructors.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-420, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-07-049 (Order 116B), recodified as § 246-841-420, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-230, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-470 Program directors and instructors in approved nursing assistant-certified training programs. (1) The program director must hold a current license in good standing as a registered nurse (RN) in the state of Washington.

(2) The commission may deny or withdraw a program director's approval if there is or has been any action taken against the director's health care license or any license held by the director which allows him or her to work with vulnerable populations.

(3) The program director must complete a training course on adult instruction or have demonstrated that he or she has one year experience teaching adults.

(a) Acceptable experience does not include in-service education or patient teaching.

(b) The training course on adult instruction must provide instruction in:

(i) Understanding the adult learner.

(ii) Techniques for teaching adults.

(iii) Classroom methods for teaching adults.

(iv) Audio visual techniques for teaching adults.

(c) A program director working exclusively in a postsecondary educational setting is exempt from this requirement.

(4) The program director will have a minimum of three years of experience as an RN, of which at least one year will be in direct patient care.

(5) The program director must meet the requirements for additional staff under subsection (7)(b) of this section if the program director will also be acting as an instructor.

(6) Program director responsibilities:

(a) Develop and implement a curriculum which meets as a minimum the requirements of WAC 246-841-490. The program director is responsible for all classroom and clinical training content and instruction provided by the training program. The clinical experience may occur in a health care facility or it may occur through planned simulation in the training program's skills lab in accordance with the requirements included in WAC 246-841-490.

(b) Assure compliance with and assume responsibility for meeting the requirements of WAC 246-841-490 through 246-841-510.

(c) Assure that all student clinical experience is directly supervised. Direct supervision means that an approved program director or instructor is observing students performing tasks. As an alternative, the program director may also award clinical hours' credit for nursing assistant-registered (NAR) employment or volunteer experience completed under the supervision of a licensed nurse in a care facility with competency demonstrated and documented in accordance with the commission procedure and form "Nursing Assistant-Registered (NAR) Verification of Clinical Hours and Competency," available by request to the commission. It is the program director's responsibility to verify that each student's employment or volunteer experience meets the qualifying standards included in WAC 246-841-490.

(d) Assure that the clinical instructor has no concurrent duties during the time he or she is instructing students.

(e) Create and maintain an environment conducive to teaching and learning.

(f) Select and supervise all other instructors involved in the course, including clinical instructors and guest lecturers.

(g) Assure that students are not asked to, nor allowed to, perform any clinical skill with patients or clients or in simulation activities until first demonstrating the skill satisfactorily to an instructor in a ~~((practice setting))~~ skills lab setting.

(h) Assure evaluation of knowledge and skills of students before verifying completion of the course.

(i) Assure that students receive a verification of completion when requirements of the course have been satisfactorily met.

(7) The program director may select instructional staff to assist in the teaching of the course.

(a) Instructional staff must teach in their area of expertise.

(b) Instructional staff must have a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age or both.

(c) All instructional staff must hold a current Washington state license to practice as a registered or licensed practical nurse. The commission may deny or withdraw an instructor's approval if there is or has been any action taken against a health care license or any license held by the applicant which allows him or her to work with vulnerable populations.

(d) Instructional staff may assist the program director in development of curricula, teaching modalities, and evaluation. The instructor will be under the supervision of the program director at all times.

(e) A guest lecturer, or individual with expertise in a specific course unit may be used in the classroom setting for teaching without commission approval, following the program director's review of the currency of content. The guest lecturer, where applicable, must hold a license, certificate or registration in good standing in their field of expertise.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-470, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-23-077 (Order 214B), § 246-841-470, filed 11/19/91, effective 12/20/91; WSR 91-07-049 (Order 116B), reclassified as § 246-841-470, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-260, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-841-490 Core curriculum in approved nursing assistant-certified training programs. (1) The curriculum must be competency based. It must be composed of learning objectives and activities that will lead to knowledge and skills required for the graduate to demonstrate mastery of the core competencies as provided in WAC 246-841-400.

(2) The program director will determine the amount of time required in the curriculum to achieve the objectives. The time designated may vary with characteristics of the learners and teaching or learning variables. There must be a minimum of eighty-five hours total, with a minimum of thirty-five hours of classroom training and a minimum of fifty hours of clinical training.

(a) Of the fifty hours of clinical training, at least forty clinical hours must be in the (~~practice setting~~) a health care facility or completed through planned simulation in the training program's skills lab.

(b) Training to orient the student to the health care facility (~~and~~), facility policies and procedures, planned simulation, and

simulation policies and procedures are not to be included in the minimum hours above.

(c) Planned simulation as used in this section means a technique to replace or amplify real experiences with guided experiences evoking or replicating substantial aspects of the real world in a fully interactive manner. The requirements for training programs to offer planned simulation include:

(i) Nursing assistant training programs may use planned simulation activities as a substitute for traditional clinical experiences in health care facilities after submitting a request on a form provided by the commission and receiving approval from the commission.

(ii) For the purposes of planned simulation activities, the skills lab of the training program represents a health care facility with students acting in a variety of roles in predeveloped scenarios that provide opportunities for students to demonstrate nursing assistant competencies as they would in a traditional clinical experience in a health care facility. Examples of roles students may play include: The nursing assistant providing care; another member of the health care team; a client or resident; a client's or resident's loved one. Simulated health care facility scenarios include, at a minimum: Policies and procedures for students to follow; a cadre of diverse clients or residents and their care plans; and opportunities to participate in shift reports, respond to and communicate status changes to the nurse, and document appropriately.

(iii) A written plan exists for each planned simulation activity and includes specific nursing assistant competencies identified as objectives. The written plan also includes a summary of the care situation or scenario and the various roles students will play in the scenario; and the time allotted for the planned simulation activity, including time for debriefing.

(iv) Debriefing is a critical component of planned simulation activities that helps students to learn from their clinical experiences. Debriefing is facilitated by the program instructor or director in a way that encourages active discussion and reflective thinking by students and provides relevant instructor and peer feedback regarding simulation events and participants' performance.

(v) Planned simulation activities reflect an array of objectives and care scenarios to support adequate evaluation of each student's competency in the nursing assistant role as reflected in WAC 246-841-400.

(vi) Documentation exists as a record of the evaluation of each student's performance in planned simulation activities.

(vii) The nursing assistant training program shall have adequate human and material resources to implement planned simulation activities, including adequate space, equipment, and supplies.

(viii) An approved program instructor or the program director must supervise and evaluate planned simulation activities. A guest lecturer may not supervise or evaluate planned simulation activities.

(ix) The nursing assistant training program obtains anonymous written student evaluations of the planned simulation activities at the end of each class and demonstrates use of student feedback for on-going quality improvement efforts as needed.

(3) Each unit of the core curriculum will have:

(a) Behavioral objectives, which are statements of specific observable actions and behaviors that the learner is to perform or exhibit.

(b) An outline of information the learner will need to know in order to meet the objectives.

(c) Learning activities such as lecture, discussion, readings, film, or clinical practice designed to enable the student to achieve the stated objectives.

(d) To meet qualifying standards to count as clinical hours' credit, the NAR employment or volunteer experience must:

(i) Be performed under an active NAR credential during enrollment in the class;

(ii) Include a background check prior to contact with clients or residents;

(iii) Occur in a care facility where a licensed nurse is present to supervise throughout the clinical experience and verify competency for tasks assigned;

(iv) Include opportunities for the NAR to successfully demonstrate the competencies of a nursing assistant as identified in WAC 246-841-400;

(v) Be supervised by a licensed nurse who is not a friend or relative;

(vi) Include care of clients or residents who are not friends or relatives; and

(vii) Be verifiable with the care facility.

(4) Clinical teaching in a competency area is closely correlated with classroom teaching to integrate knowledge with manual skills.

(a) Students must wear name tags clearly identifying them as students when interacting with patients, clients or residents, ~~((and))~~ families, and in planned simulation activities.

(b) An identified instructor(s) will supervise clinical teaching or learning at all times. At no time will the ratio of students to instructor exceed ten students to one instructor in the clinical setting whether the clinical setting is a health care facility or represented through planned simulation in the training program's skills lab. As an alternative, the program director may award clinical hours' credit for NAR employment or volunteer experience as described in WAC 246-841-470

(6) (c).

(5) The curriculum must include evaluation processes to assess mastery of competencies. Students cannot perform any clinical skill on clients or residents or in planned simulation activities until first demonstrating the skill satisfactorily to an instructor in ~~((the practice setting))~~ a skills lab setting.

[Statutory Authority: RCW 18.79.110, 18.88A.060 and 2020 c 76. WSR 21-04-016, § 246-841-490, filed 1/22/21, effective 2/22/21. Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-490, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-23-077 (Order 214B), § 246-841-490, filed 11/19/91, effective 12/20/91; WSR 91-07-049 (Order 116B), recodified as § 246-841-490, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-270, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-500 Physical resources required for approved nursing assistant-certified training programs. (1) Classroom facilities must provide adequate space, lighting, comfort, and privacy for effective teaching and learning.

(2) Adequate classroom resources, such as white board or other writing device, audio visual materials, and written materials must be available.

(3) Appropriate equipment must be provided for teaching and practicing clinical skills and procedures before implementing the skills with clients or residents or in planned simulation in the training program's skills lab.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-500, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-07-049 (Order 116B), recodified as § 246-841-500, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-275, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 08-06-100, filed 3/5/08, effective 4/5/08)

WAC 246-841-510 Administrative procedures for approved nursing assistant-certified training programs. (1) The program must establish and maintain a file for each student enrolled. The file must include:

(a) Dates attended.

(b) Test results.

(c) A skills evaluation checklist with dates of skills testing and signature of instructor. If the program grants clinical hours' credit for students employed or volunteering as nursing assistants-registered in accordance with WAC 246-841-470 (6)(c), the student file must also include a fully completed commission-approved student form to verify student clinical hours and competency "Nursing Assistant-Registered (NAR) Verification of Clinical Hours and Competency," available by request to the commission.

(d) Documentation of successful completion of the course, or documentation of the course outcome.

(2) Each student file must be maintained by the program for a period of five years, and copies of documents made available to students who request them.

(3) Verification of successful completion of the course of training will be provided to the commission on forms provided by the commission.

(4) For those programs based in a health care facility: Verification of program completion and the application for state testing will not be withheld from a student who has successfully met the requirements of the program. Successful completion will be determined by the training program director separately from other employer issues.

[Statutory Authority: RCW 18.88A.060(1) and 18.88A.030(5). WSR 08-06-100, § 246-841-510, filed 3/5/08, effective 4/5/08. Statutory Authority: RCW 18.88A.060. WSR 91-07-049 (Order 116B), recodified as §

246-841-510, filed 3/18/91, effective 4/18/91. Statutory Authority: RCW 18.88.080. WSR 90-20-018 (Order 091), § 308-173-280, filed 9/21/90, effective 10/22/90.]

AMENDATORY SECTION (Amending WSR 11-16-042, filed 7/27/11, effective 8/27/11)

WAC 246-841-555 Responsibilities of the program director in alternative programs. The program director of an alternative program is responsible for:

- (1) Development and use of a curriculum which:
 - (a) Meets the requirements of WAC 246-841-545; or
 - (b) Meets the requirements of WAC 246-841-550.
- (2) Ensuring compliance with the requirements of WAC 246-841-500 and 246-841-510.
- (3) Verifying home care aides-certified have a valid certification before admission to the alternative program.
- (4) Verifying medical assistants-certified have certification before admission to the alternative program.
- (5) Direct supervision of all students during clinical experience in a health care facility or during planned simulation in the training program's skills lab. Direct supervision means an approved program director or instructor observes students performing tasks. As an alternative, the program director may also award clinical hours' credit for nursing assistant-registered (NAR) employment or volunteer experience completed under the supervision of a licensed nurse in a care facility with competency demonstrated and documented in accordance with commission procedure and form "Nursing Assistant-Registered (NAR) Verification of Clinical Hours and Competency," available by request to the commission. In addition, to meet qualifying standards to count as clinical hours' credit, the NAR employment or volunteer experience must:
 - (a) Be performed under an active NAR credential during enrollment in the class;
 - (b) Include a background check prior to contact with clients or residents;
 - (c) Occur in a care facility where a licensed nurse is present to supervise throughout the clinical experience and verify competency for tasks assigned;
 - (d) Include opportunities for the NAR to successfully demonstrate the competencies of a nursing assistant as identified in WAC 246-841-400;
 - (e) Be supervised by a licensed nurse who is not a friend or relative;
 - (f) Include care of clients or residents who are not friends or relatives; and
 - (g) Be verifiable with the care facility.
- (6) Ensuring the clinical instructor has no concurrent duties during the time he or she is instructing students.
- (7) Maintaining an environment acceptable to teaching and learning.
- (8) Supervising all instructors involved in the course. This includes clinical instructors and guest lecturers.
- (9) Ensuring students are not asked to, or allowed to perform any clinical skill with patients or clients or in planned simulation ac-

tivities until the students have demonstrated the skill satisfactorily to an instructor in a ((~~practice~~)) skills lab setting.

(10) Evaluating knowledge and skills of students before verifying completion of the course.

(11) Providing students a verification of completion when requirements of the course have been satisfied.

(12) Providing adequate time for students to complete the objectives of the course. The time may vary with skills of the learners and teaching or learning variables.

(13) Establishing an evaluation process to assess mastery of competencies.

[Statutory Authority: RCW 18.88A.087 and 18.88A.060. WSR 11-16-042, § 246-841-555, filed 7/27/11, effective 8/27/11.]

WSR 23-18-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-186—Filed September 1, 2023, 4:07 p.m., effective September 1, 2023, 4:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule: (1) Closes Shrimp Management Region 2W, Shrimp Management Region 5, and Marine Fish and Shellfish (MFSF) Catch Area 26D effective one hour after official sunset on August 31, 2023, following commercial spot shrimp cleanup fisheries.

(2) Closes Subarea 23A-E effective one hour after official sunset on September 2, 2023, following commercial spot shrimp cleanup fisheries.

(3) Closes MFSF Catch Area 20B effective one hour after official sunset on August 31, 2023.

(4) Sets hard closure dates agreed to with comanagers for beam trawl shrimp fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000N, 220-340-54000H and 220-320-14000B; and amending WAC 220-340-520, 220-340-530, and 220-320-140.

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

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

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

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

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

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

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

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

Date Adopted: September 1, 2023.

Kelly Susewind
Director

NEW SECTION**WAC 220-340-52000P 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 sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	Open through September 15, 2023
Subregion 1B	Closed
Subregion 1C	Open through September 15, 2023
Region 2E	Open through September 15, 2023
Region 2W	Open through August 31, 2023
Subarea 23A-E	Open through September 2, 2023
Subarea 23A-W	Open through September 15, 2023
Subarea 23A-C and MSFS Catch Area 23B	Open 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 through September 15, 2023
Discovery Bay Shrimp District	Open 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 August 31, 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 have exceeded 5,400 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) It is lawful to possess 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 drawstring 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 sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	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 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 possess deactivated spot shrimp pots on-board of a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for non-spot shrimp.

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

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

NEW SECTION

WAC 220-320-14000C Commercial shrimp geographical management units—Puget Sound. Notwithstanding the provisions of WAC 220-320-140, for the purposes of Puget Sound shrimp trawl fishing seasons the following areas are designated as 'Beam Trawl Areas'.

Non-spot shrimp beam trawl specific harvest area definitions:

Name	Geographic Area Description (WAC 220-320-140(3))
South Lopez Sound	Those waters of Lopez Sound within subregion 1B that are south of a line projected true east-west from the northern tip of Trump Island (48.5064°, -122.8369°).
Rosario Box	That portion of Catch Area 22A within subregion 1B that are east of a line projected along -122.7833° longitude (east of Blakely Island) and west of a line projected along -122.7167° longitude (west of Cypress Island) in Rosario Strait.
Lummi-Sinclair Triangle	Those waters of Catch Area 21A north and west of a line from the southern tip of Sinclair Island (48.6097°, -122.6572°) to Carter Point (48.6404°, -122.6088°) on Lummi Island.

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NEW SECTION

WAC 220-340-53000A Commercial shrimp trawl fishery—Puget Sound. Notwithstanding the provisions of WAC 220-340-530, 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 beam trawl gear in Puget Sound except as provided for in Tables a, b, and c of this section:

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

Geographic Area Description ((WAC 220-320-140(3); WAC 220-320-120)	Open period
Catch Area 20A outside of those waters north and east of a line from Point Roberts Light (48.9716°, -123.0838°) to Sandy Point Light at the Lummi Reservation (48.7868°, -122.7124°)	August 1, 2023, through October 15, 2023.
Those waters within the Lummi-Sinclair Triangle.	Open through October 15, 2023.
Those waters of South Lopez Sound.	Open through October 15, 2023.
All waters within subregion 1B, excluding those waters of South Lopez Sound, the Lummi-Sinclair Triangle, and Catch Area 20B.	Open through October 15, 2023.
Subarea 23A East, MFSF Catch Areas 23B, and MFSF Catch Area 25A outside of the Discovery Bay Shrimp District.	Open through September 30, 2023.
Subarea 23A West	Open through September 30, 2023.
MFSF Catch Area 23C	Open through September 30, 2023.
MFSF Catch Area 29	Open through September 30, 2023.

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

Geographic Area Description ((WAC 220-320-140(3); WAC 220-320-120)	Open period
Those waters within the Rosario Box.	Open through October 15, 2023.
Those waters of Catch Area 22A within subregion 1B, excluding the Rosario Box and South Lopez Sound.	Open through October 15, 2023.
Those waters of Catch Area 20B within subregion 1B.	Open through August 31, 2023

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

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

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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 sections of Washington Administrative Code are repealed, effective immediately:

- WAC 220-340-52000N Commercial shrimp pot fishery—Puget Sound. (23-172)
- WAC 220-340-54000H Commercial shrimp trawl fishery—Puget Sound. (23-139)
- WAC 220-320-14000B Commercial shrimp geographical management units—Puget Sound. (23-139)

WSR 23-18-072
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-187—Filed September 1, 2023, 4:15 p.m., effective September 1, 2023, 4:15 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open additional days of recreational crab seasons in Marine Area 7 North.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000K and 220-330-04000L; 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 adjust the recreational crab harvest season in Marine Area 7 North. Days are being added to compensate for a delay to the start of this fishery, which was originally scheduled for August 17 and was delayed until August 20 due to an abundance of crab in soft shell condition. Beginning on September 14, Marine Area 7 North will be open seven days per week through September 30, which will add four days to the season currently in place. 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: September 1, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-04000L 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 immediately through 11:59 p.m. September 11, 2023, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays, and Mondays. From 12:01 a.m. September 14, through 11:59 p.m. September 30, 2023, it is permissible to fish for crab for personal use seven days per week.

(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 220-330-04000K Crab—Areas and seasons—Personal use.
(23-170)

The following section of the Washington Administrative Code is repealed effective October 1, 2023:

WAC 220-330-04000L Crab—Areas and seasons—Personal use.

WSR 23-18-073
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-188—Filed September 1, 2023, 4:25 p.m., effective September 2, 2023]

Effective Date of Rule: September 2, 2023.

Purpose: The purpose of this emergency rule is to open commercial gillnet and purse seine seasons in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A and commercial reef net seasons in Area 7.

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 emergency rule is needed to schedule openings for commercial purse seine and gillnet fisheries in Puget Sound Management and Catch Reporting Areas 7 and 7A and commercial reefnet fisheries in Area 7. Prosecuting these fisheries has 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 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: September 1, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000Y Puget Sound salmon—Purse seine—Open periods. Effective September 2 through September 5, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as follows. All other provisions of WAC 220-354-120 not con-

tained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
7 and 7A	9/2, 9/3, 9/4, 9/5	Open	5 a.m. - 9 p.m.

Release all salmon other than pink salmon.

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NEW SECTION

WAC 220-354-16000I Puget Sound salmon—Gillnet—Open periods.

Effective September 2 through September 5, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area(s)	Date(s)	Open/Closed	Daily open period	Minimum mesh size
7 and 7A	9/2, 9/3, 9/4, 9/5	Open	8 a.m. - midnight	6 1/4"

Sockeye must be released.

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NEW SECTION

WAC 220-354-18000A Reef net open periods. Notwithstanding the provisions of WAC 220-354-180, effective September 2 through September 5, 2023, 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:

Area(s)	Date(s)	Open/Closed	Daily open period
7	9/2, 9/3, 9/4, 9/5	Open	5 a.m. - 9 p.m.

(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.

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WSR 23-18-087
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-189—Filed September 5, 2023, 4:22 p.m., effective September 6, 2023]

Effective Date of Rule: September 6, 2023.

Purpose: The purpose of this emergency rule is to open commercial gillnet and purse seine seasons in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A and commercial reef net seasons in Area 7.

Citation of Rules Affected by this Order: Amending WAC 220-354-120, 220-354-160, and 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 schedule openings for commercial purse seine and gillnet fisheries in Puget Sound Management and Catch Reporting Areas 7 and 7A and commercial reefnet fisheries in Area 7. Prosecuting these fisheries has 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 3, 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: September 5, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000Z Puget Sound salmon—Purse seine—Open periods. Effective September 6 through September 8, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as follows. All other provisions of WAC 220-354-120 not con-

tained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Date(s)	Open/Closed	Daily open period
7 and 7A	9/6, 9/7, 9/8	Open	5 a.m. - 9 p.m.

Release all salmon other than pink salmon.

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NEW SECTION

WAC 220-354-16000J Puget Sound salmon—Gillnet—Open periods.

Effective September 6 through September 8, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting areas 7 and 7A shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area(s)	Date(s)	Open/Closed	Daily open period	Minimum mesh size
7 and 7A	9/6, 9/7, 9/8	Open	8 a.m. - midnight	6 1/4"

Sockeye must be released.

[]

NEW SECTION

WAC 220-354-18000B Reef net open periods. Notwithstanding the provisions of WAC 220-354-180, effective September 6 through September 8, 2023, 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:

Area(s)	Date(s)	Open/Closed	Daily open period
7	9/6, 9/7, 9/8	Open	5 a.m. - 9 p.m.

(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.

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