

WSR 23-23-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-245—Filed November 2, 2023, 1:23 p.m., effective November 6, 2023]

Effective Date of Rule: November 6, 2023.

Purpose: Closes harvest of sea cucumber in all areas.

Citation of Rules Affected by this Order: Repealing WAC 220-340-73000L.

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

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

Reasons for this Finding: This emergency rule closes harvest of sea cucumber in all areas to preserve quota for another opener in January 2024. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 2, 2023.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administration code is repealed November 6, 2023:

WAC 220-340-73000L Commercial sea cucumber fishery.
(23-197)

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

[Order 23-246—Filed November 2, 2023, 1:42 p.m., effective November 6, 2023]

Effective Date of Rule: November 6, 2023.

Purpose: Closes commercial harvest of green sea urchin in Districts 6 and 7. Opens commercial harvest of green sea urchin in District 2.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000X; and amending WAC 220-340-750.

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

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

Reasons for this Finding: This emergency rule closes Sea Urchin Districts 6 and 7, and opens Sea Urchin District 2, on November 6 to harvest of green sea urchins. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 2, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000Y Commercial sea urchin fisheries. Effective November 6, 2023, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

1. It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5 inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

2. The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 2, District 3, District 4.

3. The maximum cumulative landings for green sea urchins for each weekly fishery opening period is 1,500 pounds per valid designated sea urchin harvest license.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 6, 2023:

WAC 220-340-75000X Commercial sea urchin fisheries.
(23-215)

WSR 23-23-032

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed November 3, 2023, 10:33 a.m., effective November 3, 2023, 10:33 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Medication assistance in community-based and in-home care settings. As provided in RCW 69.41.010(15) the pharmacy quality assurance commission (commission) and department of health (department) are filing jointly to reinstate medication assistance rules as permitted under chapter 69.41 RCW by adopting new rules in WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728. This adopted emergency rule will extend WSR 23-15-017 filed on July 7, 2023, without change.

This rule establishes criteria for medication assistance in community-based and in-home care settings in accordance with chapter 69.41 RCW. The definition for medication assistance provided in RCW 69.41.010(15) states:

"Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department.

These emergency rules provide further definitions for terms used within this definition such as "enabler" and establish those "other means of medication assistance as defined by rule adopted by the department." These rules help impacted individuals retain their independence and live in the least restrictive setting, such as their own home, longer by providing means and guidance for medication assistance.

Citation of Rules Affected by this Order: New WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728.

Statutory Authority for Adoption: RCW 18.64.005, 69.41.010(15), and 69.41.075.

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 commission's new chapter 246-945 WAC became effective in July 2020. The old rules, including the former rules on medication assistance (chapter 246-888 WAC), were repealed in March 2021. The commission's repeal of chapter 246-888 WAC has resulted in unintended disruptions for medication assistance in the community-based and in-home care settings permitted under chapter 69.41 RCW. Emergency rule making is necessary to immediately restore medication assistance regulations to preserve patient safety and welfare while the commission and the department work on permanent rule making. The CR-101 was filed on December 27, 2021, under WSR 22-02-015. Permanent

rule making was originally delayed due to the novel coronavirus COVID-19 pandemic but is still in progress. Commission staff and the department of social and health services (DSHS) met for preliminary discussions regarding draft language. Drafts of the amended rule language were written by commission staff and shared with DSHS personnel for interagency review. The commission will distribute draft language to the public leading up to the planned workshops in early winter of 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 10, Amended 0, Repealed 0.

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

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

Date Adopted: October 3, 2023.

Kenneth Kenyon, PharmD, MBA, Chair
Pharmacy Quality Assurance Commission
Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-2998.2

PART 5 - MEDICATION ASSISTANCE

NEW SECTION

WAC 246-945-710 Scope and applicability. (1) This section through WAC 246-945-728 only apply to medication assistance provided in community-based care settings and in-home care settings.

(2) The following definitions apply to this section through WAC 246-945-728 unless the context requires otherwise:

(a) "Medication" means legend drugs and controlled substances;

and

(b) "Practitioner" has the same meaning as in RCW 69.41.010(17).

NEW SECTION

WAC 246-945-712 Self-administration with assistance, independent self-administration, and medication administration. (1) Self-administration with assistance means assistance with legend drugs and controlled substances rendered by a nonpractitioner to an individual residing in a community-based care setting or an in-home care setting. It includes reminding or coaching the individual to take their medication, handing the medication container to the individual, opening the medication container, using an enabler, or placing the medication in the hand of the individual/resident. The individual/resident must be able to put the medication into their mouth or apply or instill the medication. The individual/resident does not necessarily need to state the name of the medication, intended effects, side effects, or other details, but must be aware that they are receiving medication. Assistance may be provided by a nonpractitioner with prefilled insulin syringes. Assistance is limited to handing the prefilled insulin syringe to an individual/resident. Assistance with the administration of any other intravenous or injectable medication is specifically excluded. The individual/resident retains the right to refuse medication. Self-administration with assistance shall occur immediately prior to the ingestion or application of a medication.

(2) Independent self-administration occurs when an individual/resident is independently able to directly apply a legend drug or controlled substance by ingestion, inhalation, injection or other means. In licensed assisted living facilities, self-administration may include situations in which an individual cannot physically self-administer medications but can accurately direct others. These regulations do not limit the rights of people with functional disabilities to self-direct care according to chapter 74.39 RCW.

(3) If an individual/resident is not able to physically ingest or apply a medication independently or with assistance, then the medication must be administered to the individual/resident by a person legally authorized to do so (e.g., physician, nurse, pharmacist). All laws and regulations applicable to medication administration apply. If an individual/resident cannot safely self-administer medication or self-administer with assistance or cannot indicate an awareness that they are taking a medication, then the medication must be administered to the individual/resident by a person legally authorized to do so.

NEW SECTION

WAC 246-945-714 Self-administration with assistance in a community-based care setting or an in-home setting. (1) An individual/resident, or their representative, in a community-based care setting or an in-home setting may request self-administration with assistance.

(2) No additional separate assessment or documentation of the needs of the individual/resident are required in order to initiate self-administration with assistance. It is recommended that providers document their decision-making process in the health record of the individual or resident health record.

(3) A nonpractitioner may help in the preparation of legend drugs and controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate.

NEW SECTION

WAC 246-945-716 Enabler. (1) Enablers are physical devices used to facilitate an individual's/resident's self-administration of a medication. Physical devices include, but are not limited to, a medicine cup, glass, cup, spoon, bowl, prefilled syringes, syringes used to measure liquids, specially adapted table surface, straw, piece of cloth, or fabric.

(2) An individual's hand may also be an enabler. The practice of "hand-over-hand" administration is not allowed. Medication administration with assistance includes steadying or guiding an individual's hand while he or she applies or instills medications such as ointments, eye, ear, and nasal preparations.

NEW SECTION

WAC 246-945-718 Alteration of medication for self-administration with assistance. Alteration of a medication for self-administration with assistance includes, but is not limited to, crushing tablets, cutting tablets in half, opening capsules, mixing powdered medications with foods or liquids, or mixing tablets or capsules with foods or liquids. Individuals/residents must be aware that the medication is being altered or added to their food.

NEW SECTION

WAC 246-945-720 Medication alteration. A practitioner practicing within their scope of practice must determine that it is safe to alter a legend drug or controlled substance. If the medication is altered, and a practitioner has determined that such medication alteration is necessary and appropriate, the determination shall be communicated orally or by written direction. Documentation of the appropriateness of the alteration must be on the prescription container, or in the individual's/resident's record.

NEW SECTION

WAC 246-945-722 Types of assistance provided by nonpractitioner. A nonpractitioner can transfer a medication from one container to another for the purpose of an individual dose. Examples include: Pouring a liquid medication from the medication container to a calibrated spoon or medication cup.

NEW SECTION

WAC 246-945-724 Oxygen order/prescription requirements. Under state law, oxygen is not a medication and is not covered under this rule. While oxygen is not considered a medication under state law, oxygen does require an order/prescription from a practitioner.

NEW SECTION

WAC 246-945-726 Self-administration with assistance of medication through a gastrostomy or "g-tube." If a prescription is written as an oral medication via "g-tube," and if a practitioner has determined that the medication can be altered, if necessary, for use via "g-tube," the rules as outlined for self-administration with assistance would also apply.

NEW SECTION

WAC 246-945-728 Other medication assistance requirements. A practitioner, nonpractitioner, and an individual/resident or their representative should be familiar with the rules specifically regulating the residential setting. The department of social and health services has adopted rules relating to medication services in assisted living facilities and adult family homes.

WSR 23-23-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-250—Filed November 3, 2023, 2:08 p.m., effective November 3, 2023, 2:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow chum retention in Carr Inlet.

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

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

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

Reasons for this Finding: Comanagers have agreed to limited harvest opportunity in this area due to the low risk of negatively impacting natural stocks returning to South Sound. Chum salmon will be included as part of the daily limit for salmon in Marine Area 13. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 3, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000N Puget Sound salmon—Saltwater seasons and daily limits. Effective immediately through December 7, 2023, salmon rules for Catch Record Card Area 13 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) Waters of Carr Inlet northerly of a line projected from Penrose Point (47°15'53.6"N, 122°44'11.5"W) to Green Point (47°16'55.2"N, 122°41'41.8"W).

(2) Salmon daily limit 2. Chinook min. size 22". Release wild coho and wild Chinook.

WSR 23-23-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-248—Filed November 3, 2023, 3:51 p.m., effective November 7, 2023]

Effective Date of Rule: November 7, 2023.

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

WAC 220-340-45500Y:

(1) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4 at 8:00 a.m. on November 7, 2023, until further notice.

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

(3) Amends the Bellingham Bay tribal exclusive area to match what will be implemented in permanent rule.

(4) Permits barging for 48 hours following the opening.

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

Citation of Rules Affected by this Order: Amending WAC 220-340-455 and 220-340-470.

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

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

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

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

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

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

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

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

Date Adopted: November 3, 2023.

Amy H. Windrope
for Kelly Susewind

NEW SECTION

WAC 220-340-45500Y Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455, effective November 7, 2023, until further notice:

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

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	November 7, 2023, until further notice
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	November 7, 2023, until further notice
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	November 7, 2023, until further notice
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	November 7, 2023, until further notice
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	November 7, 2023, until further notice
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	November 7, 2023, until further notice
Subregion 3-1	November 7, 2023, until further notice
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	November 7, 2023, until further notice
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	November 7, 2023, until further notice
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	November 7, 2023, until further notice
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	November 7, 2023, until further notice
Subregion 3-4	November 7, 2023, until further notice

(2) The area closed to commercial harvest in WAC 220-340-455 (2)(c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

(3) Barging in Puget Sound will be permitted during the 48-hour period following the opening on November 7, 2023.

NEW SECTION

WAC 220-340-47000V Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. Notwithstanding the provisions of 220-340-470, effective November 7, 2023, until further notice:

During the "Open period" listed in WAC 220-340-45500Y(1), it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	40
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	40
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	25
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	40
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	30
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

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

WSR 23-23-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-249—Filed November 3, 2023, 3:54 p.m., effective November 4, 2023]

Effective Date of Rule: November 4, 2023.

Purpose: The purpose of this emergency rule is to reduce the adult salmon portion of the salmon daily limit to one fish for Grays Harbor streams and some coastal tributaries.

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

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

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

Reasons for this Finding: This rule is needed to reduce the adult salmon portion of the daily limit to one fish for the Grays Harbor watershed and coastal streams listed in this rule.

Early season indicators suggest the number of coho returning to Grays Harbor and other coastal tributaries are lower than preseason forecast. These measures are necessary to ensure natural escapement and hatchery broodstock goals are met.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 3, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000G Freshwater exceptions to statewide rules—Coast. Effective November 4 through December 31, 2023, the following provisions of WAC 220-312-020, regarding recreational salmon seasons for the Grays Harbor watershed listed herein shall be modified as described below. All other provisions of WAC 220-312-020 not addressed

herein, or unless otherwise amended by emergency rule, remain in effect:

(1) Black River (Grays Harbor Co.), from mouth to bridge on 128th Ave SW:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(2) Chehalis River (Grays Harbor Co.), from the mouth upstream to the high bridge on Weyerhaeuser 1000 line:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(3) Clearwater River (Jefferson Co.), from the mouth to Snahapish River:

November 4 through November 30, 2023: Daily limit 3 including no more than 1 adult. Release Chinook.

(4) Copalis River (Grays Harbor Co.), from mouth to Carlisle Bridge:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(5) Elk River (Grays Harbor Co.), from the mouth (Hwy. 105 Bridge) to the confluence of Middle Branch:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(6) Hoquiam River including West Fork (Grays Harbor Co.), from mouth (Hwy. 101 Bridge on Simpson Ave.) to Dekay Rd. Bridge (West Fork):

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(7) Hoquiam River including East Fork (Grays Harbor Co.), from mouth to confluence of Berryman Creek:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(8) Joe Creek (Grays Harbor Co.), from the mouth to Ocean Beach Rd. Bridge:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(9) Johns River (Grays Harbor Co.), from the mouth (Hwy. 105 Bridge) to Ballon Creek:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(10) Moclips River (Grays Harbor Co.), from the mouth to Quinault Indian Reservation boundary:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(11) Newaukum River, including South Fork (Lewis Co.), from mouth to Leonard Rd near Onalaska:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(12) Salmon River (Jefferson Co.), from outside Quinault Indian Reservation and Olympic National Park:

November 4 through November 30, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(13) Satsop River and East Fork (Grays Harbor Co.):

(a) From mouth to bridge at Schafer State Park:

Effective November 4 through December 31, 2023: Salmon: Daily limit 6 including no more than 1 adult. Release Chinook.

(b) From 400 feet below Bingham Creek Hatchery dam to the dam:

Effective November 4 through December 31, 2023: Salmon: Daily limit 6 including no more than 1 adult. Release Chinook.

(14) Skookumchuck River (Lewis/Thurston Co.), from mouth to 100' below outlet of TransAlta WDFW steelhead rearing pond located at the base of Skookumchuck Dam:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(15) Van Winkle Creek (Grays Harbor Co.), from mouth to 400' below outlet of Lake Aberdeen Hatchery:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(16) Wishkah River (Grays Harbor Co.):

(a) From the mouth to 200' below the weir at the Wishkah Rearing Ponds

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(b) From 150' upstream to 150' downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary):

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

(17) Wynoochee River (Grays Harbor Co.), from mouth to the WDFW White Bridge access site:

November 4 through December 31, 2023: Daily limit 6 including no more than 1 adult. Release Chinook.

REPEALER

The following section of Washington Administrative Code is repealed, effective November 4, 2023:

WAC 220-312-02000E Freshwater exceptions to statewide rules—Coast. (23-234)

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

[Order 23-252—Filed November 7, 2023, 3:18 p.m., effective November 12, 2023]

Effective Date of Rule: November 12, 2023.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons.

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

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

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

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

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

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

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

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

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

Date Adopted: November 7, 2023.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 p.m. November 12 through 11:59 p.m. November 18, 2023, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during evening tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	November 13 through 16	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	November 13 through 16	From 12:01 p.m. to 11:59 p.m.
Area 4	November 13, 15, and 17	From 12:01 p.m. to 11:59 p.m.
Area 5	November 12, 14, 16, and 18	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 19, 2023:

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

WSR 23-23-055
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 8, 2023, 7:42 a.m., effective November 18, 2023]

Effective Date of Rule: November 18, 2023.

Purpose: The department is planning to amend WAC 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-112A-0130, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540 and 388-115-05410; and repeal WAC 388-112A-0130 in response to and in compliance with E2SHB 1694 (chapter 424, Laws of 2023). The other changes include the numerical representation, consistency, and inclusive language. This is the second emergency rule, while proposed rules are in process.

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

Statutory Authority for Adoption: RCW 18.88B.021, 18.88B.041, 18.88B.060, 74.08.090, 74.39A.076, and 74.39A.341.

Other Authority: RCW 18.88B.010, 18.88B.021, 18.88B.041, 74.39A.076, and 74.39A.341.

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

Reasons for this Finding: This is the second emergency rule which is necessary because there is insufficient time to put permanent rules in place before the current emergency rule expires on November 18, 2023. The department is proceeding with permanent rule adoption and has filed a CR-101 under 23-15-074 and a CR-102 proposal under WSR 23-23-043.

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 22, 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 0, Amended 0, Repealed 0.

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

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

Date Adopted: November 8, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4990.8

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

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

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. <u>For NA-C and those with special education training 12 hours is required for each year worked in long-term care.</u>	((Not required. Must maintain in good standing the certification or credential of other professional role listed in WAC 388-71-0839)) <u>Required under chapter 246-980 WAC.</u>
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of ((his or her)) hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	<u>12 hours is required for each year worked in long-term care ((Required, 12 hours))</u> under WAC 388-71-0990 and 388-71-0991.	Not required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) **"Guardian"** means an individual as defined in chapter ~~((11.88))~~ 11.130 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The date of hire is specific to each long-term care worker. ((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.)) A long-term care worker, including an individual or agency provider who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

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

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

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

- (1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;
- (2) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of hire, and was employed as a long-term care worker at some point between January 1, 2011, and January 6, 2012;
- (3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;
- (4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within 120 days of the date of hire and the department of health has issued a nursing assistant certified credential within 200 days of the date of hire;
- (5) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;
- (6) An individual with special education training who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and
- (7) A home care aide (HCA) certified under chapter 18.88B RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs;

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

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

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

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

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

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

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.

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

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

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

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

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

~~((2) Individual providers who provide only respite services and worked more than three hundred hours in any calendar year must complete the seventy hours of basic training and become a certified home care aide.))~~

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

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

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

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

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

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

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

~~((3) Individual providers who previously only provided personal care to their biological, step, or adoptive child or parent through DDA or HCS who begin working for an unrelated client must complete the seventy hour basic training and become a certified home care aide.))~~

(4) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

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

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

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

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

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

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

(5) The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) biological, step, or adoptive parent, or adult child,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 388-71-0980 ((May)) When may a home care agency or client employ a long-term care worker who has not completed the 70-hour basic training or certification requirements? (1) If an individual has previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, and ~~((74.39A.096))~~ 74.39A.076, and this chapter, a home care agency or client must not employ the individual to work as a long-term care worker until the individual has completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset according to ~~((chapter 246-980))~~ WAC 388-71-0837.

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

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

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

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

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

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

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

(2) Individual providers that:

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

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

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

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

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

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

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

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

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

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

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

- (a) An individual who is applying for an adult family home license;
- (b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or
- (c) An individual who is applying for an enhanced services facility license.
- (4) **"Capable caregiving training"** means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements under RCW 18.20.270 and RCW 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed in both topics, may be completed for continuing education credits.
- (5) **"Care team"** includes the resident and everyone involved in ~~((their))~~ the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.
- (6) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed.
- (7) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.
- (8) **"Competency testing"** including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.
- (9) **"Core basic training"** is the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.
- (10) **"Date of hire"** for determining time frames related to training and certification ~~((r))~~ means ~~((date of hire according to chapter 246-980 WAC))~~ the first day the long-term care worker is employed by any employer.
- (11) **"DDA"** means the developmental disabilities administration.
- (12) **"Designee"** means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or enhanced services facility administrator may have more than one designee.
- (13) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).
- (14) **"Direct supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.
- (15) **"DSHS"** or **"department"** means the department of social and health services.

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

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

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

(19) "**Guardian**" means an individual as defined in chapter ~~(11.88)~~ 11.130 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The original date of hire may be reset according to (~~chapter 246-980~~) WAC 388-112A-0115. A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

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

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

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

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

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

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

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

WAC 388-115-0503 What definitions apply to WAC 388-115-0500 through 388-115-05640? (1) "Area agencies on aging (AAA)" means a

contracted entity that aging and long-term support administration (AL TSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs, and to provide case management services and supports to individuals 18 and older who receive medicaid-funded LTC in ~~((their))~~ the individual's own ~~((homes))~~ home.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Has the primary responsibility to select, dismiss, assign hours, and supervise the work of one or more individual providers; and
- (2) May receive assistance from the consumer directed employer or other resources in identifying potential providers.

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

WAC 388-115-0520 What are the training requirements for an individual provider? An individual hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836 through 388-71-1006. ~~((These training requirements also apply to individual providers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work. These training requirements and certification if required must be met prior to reinstating these individuals to work.))~~

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

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

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
<p>(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041(1)(a)(i)(A).</p>	<p>ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required ((twelve)) 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with special education training, 12 hours is required for each year worked in long-term care.</p>	<p>((Not required. Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839)) Required under chapter 246-980 WAC.</p>
<p>(2) An individual provider with specific employment history.</p>	<p>A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on ((his or her)) the worker's date of hire. WAC 388-71-0839.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>((Required. Twelve)) 12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.</p>	<p>Not required.</p>
<p>(3) An individual provider.</p>	<p>Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836((c)) and is not exempt under subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. ((Seventy)) 70 hours under WAC 388-71-0870 and 388-71-0875.</p>	<p>Required. ((Twelve)) 12 hours under WAC 388-71-0990 and 388-71-0991.</p>	<p>((Home care aide certification required under WAC 388-71-0975 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065))) Required under chapter 246-980 WAC.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(4) An individual provider who works limited hours for one person.	<u>An individual provider employed by the consumer directed employer</u> providing ((twenty)) <u>20</u> hours or less of <u>nonrespite</u> care for one person per calendar month (s) and does not meet the criteria in <u>subsection (1) or (2)</u> of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((Thirty)) <u>30</u> hours under WAC 388-71-0880.	Not required.	Not required.
(5) An individual who provides ((only)) respite services and works ((three hundred)) <u>300</u> hours or less in any calendar year.	(a) <u>An individual providing</u> ((only)) respite care and works no more than ((three hundred)) <u>300</u> hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section. (b) <u>An individual providing</u> ((only)) respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working ((three hundred)) <u>300</u> hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. ((Thirty)) <u>Nine</u> hours under WAC ((388-71-0880)) <u>388-71-0890</u> .	Not required.	Not required.
(6) An individual provider caring only for ((his or her)) <u>the provider's biological, step, or adoptive adult child</u> .	<u>An individual providing care only for ((his or her)) the provider's adult child</u> that receives services through the developmental disabilities administration and not exempt under <u>subsection (1) or (2)</u> of this section.	Required. Two hours per WAC 388-71-0895.	Required. Three hours under WAC 388-71-0895.	Required. Seven hours under WAC 388-71-0890.	Not required.	Not required.

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

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

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

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

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

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

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

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

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

WAC 388-115-05410 What are the client's rights if the consumer directed employer rejects (~~their~~) the selection of a person to serve as (~~their~~) the client's individual provider or discontinues (~~their~~) the current individual provider's assignment? (1) The client may choose to receive services from a different individual provider or another qualified provider.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-112A-0130 When and how may a long-term care worker be eligible to reset date of hire?

WSR 23-23-056
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 8, 2023, 7:58 a.m., effective November 16, 2023]

Effective Date of Rule: November 16, 2023.

Purpose: The department is extending emergency amendments to WAC 388-447-0120 How does alcohol or drug dependence affect my eligibility for referral to the housing and essential needs (HEN) program? and 388-449-0220 How does alcohol or drug dependence affect my eligibility for the ABD cash and pregnant women assistance programs? to expand good cause reasons for not participating in substance use disorder assessment or treatment as a condition of eligibility for the aged, blind, or disabled, housing and essential needs referral, and pregnant women assistance programs. These amendments are necessary to implement ESHB 1260 (chapter 289, Laws of 2023), effective July 23, 2023.

These rules are currently in effect under emergency rule filed as WSR 23-16-002.

Citation of Rules Affected by this Order: Amending WAC 388-447-0120 and 388-449-0220.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.030.

Other Authority: ESHB 1260 (chapter 289, Laws of 2023).

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

Reasons for this Finding: These amendments are necessary to implement ESHB 1260 (chapter 289, Laws of 2023), effective July 23, 2023.

The department is concurrently proceeding with the permanent rule-making process. Refer to CR-101 filed as WSR 23-13-026 on June 9, 2023, and CR-102 filed as WSR 23-20-038 on September 27, 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 2, Repealed 0.

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

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

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

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

Date Adopted: November 8, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4982.3

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

WAC 388-447-0120 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for referral to the housing and essential needs (HEN) program? (1) ~~((When we have information that indicates you may be chemically dependent,))~~ You must complete a ~~((chemical dependency))~~ substance use disorder assessment ~~((unless you have good cause to not do so))~~ when we have information that indicates you may have a substance use disorder.

(2) You must participate in ~~((drug or alcohol))~~ substance use treatment if a certified ~~((chemical dependency))~~ substance use disorder professional indicates a need for treatment, unless you have good cause ~~((to not do so))~~. Good cause includes, but is not limited to,

~~((3 We consider))~~ the following reasons ~~((to be good cause for not following through with a chemical dependency assessment or treatment))~~:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment ~~((+))~~.

(b) The outpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available in the county where you live ~~((+ or))~~.

(c) The inpatient ~~((chemical dependency))~~ substance use disorder treatment you need isn't available at a location you can reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

~~((4))~~ (3) If you refuse or ~~((fail to))~~ do not complete an assessment or treatment without good cause, your HEN referral eligibility will end ~~((following advance notification rules under WAC 388-458-0030))~~ until you provide proof you are pursuing an assessment or treatment as required.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-449-0220 How does ~~((alcohol or drug dependence))~~ substance use affect my eligibility for the aged, blind, or disabled (ABD) cash and pregnant women assistance (PWA) programs? (1) ~~((You))~~ For purposes of ABD, you must complete a ((chemical dependency)) substance use disorder assessment when we have information that indicates you may ~~((be chemically dependent))~~ have a substance use disorder.

(2) For purposes of PWA, you must complete a substance use disorder assessment when we have information that indicates you may have a substance use disorder.

~~((2))~~ (3) You must ~~((accept an assessment referral and))~~ participate in ~~((drug or alcohol))~~ substance use disorder treatment if a certified ~~((chemical dependency counselor))~~ substance use disorder professional indicates a need for treatment, unless you ~~((meet one of))~~ have good cause. Good cause includes, but is not limited to, the following ((good cause)) reasons:

(a) We determine that your physical or mental health impairment prevents you from participating in treatment.

(b) The outpatient (~~(chemical dependency)~~) substance use disorder treatment you need isn't available in the county you live in.

(c) You need inpatient (~~(chemical dependency)~~) substance use disorder treatment at a location that you can't reasonably access.

(d) You are a parent or other relative personally providing care for a minor child or an incapacitated individual living in your household, child care or day care is necessary for you to participate in substance use disorder treatment, and such care is not available.

(3) If you refuse or (~~(fail to)~~) do not complete an assessment or treatment without good cause, your benefits will end until you provide proof you are pursuing an assessment or treatment as required.

WSR 23-23-059
EMERGENCY RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed November 8, 2023, 11:42 a.m., effective November 8, 2023, 11:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to create an exemption to the odorization requirements of WAC 480-93-015 for operators of renewable natural gas (RNG) pipelines with hydrogen sulfide (H₂S) present in the gas. WAC 480-93-015(2) currently requires all gas pipeline operators to odorize their lines and perform a sniff test to detect odorization. Because H₂S is toxic to humans, RNG pipelines where H₂S is present need to be exempt from the odorization and sniff test requirements to prevent injuries that would be incurred by meeting the sniff test requirement. Through this emergency rule making, to be followed by a permanent rule making, the commission amends WAC 480-93-015 to include the necessary exemption.

Citation of Rules Affected by this Order: Amending WAC 480-93-015.

Statutory Authority for Adoption: RCW 80.01.040, 81.01.010, 81.04.160, and 80.24.020.

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

Reasons for this Finding: To meet the current odorization requirements of WAC 480-93-015, RNG pipeline operators would need to put employees at significant risk of injury. Performing a sniff test when H₂S is present in the pipeline exposes the tester to a substance that is toxic and hazardous. Because these tests must be performed on a monthly basis, the delay required by the full notice and comment rule-making procedure would continue to place pipeline operators in the position of choosing between exposing their employees to a hazardous substance or failing to meet their regulatory obligations. Exempting odorization of the lines, in addition to exempting the sniff test, is necessary because the addition of odor without confirmation via a sniff test makes the effectiveness of odorization questionable. Additionally, if odorization is not being checked via a sniff test, this may result in under-odorization which could cause leaks to go unnoticed. Unodorized lines are required under the WAC to be checked each month via a gas leak survey. The commission therefore finds that providing the exemption for odorization and the sniff test immediately through an emergency rule making, to be followed by a permanent rule making, is in the public interest and necessary for the preservation of public health and safety.

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

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

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

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

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

Date Adopted: November 8, 2023.

Kathy Hunter
Acting Executive Director and Secretary

OTS-5067.1

AMENDATORY SECTION (Amending WSR 08-12-046, filed 5/30/08, effective 6/30/08)

WAC 480-93-015 Odorization of gas. (1) Each gas pipeline company must odorize the gas in its pipeline at a concentration in air of at least one-fifth of the lower explosive limit, so that the gas is readily detectable by a person with a normal sense of smell.

(2) Each gas pipeline company must use an odorant testing instrument when conducting sniff tests. Sniff tests must be performed at least once monthly. Master meter systems that comply with 49 C.F.R. § 192.625(f) are exempt from this requirement.

(3) Each gas pipeline company must take prompt action to investigate and remediate odorant concentrations that do not meet the minimum requirements of subsection (1) of this section.

(4) Each gas pipeline company must follow the odorant testing instrument manufacturer's recommendations for maintaining, testing for accuracy, calibrating and operating such instruments. When the manufacturer does not provide a recommendation, each gas pipeline company must conduct accuracy checks and calibrate such instruments at least once annually, if the instrument is outside specified tolerances.

(5) Each gas pipeline company must keep all records of odorant usage, sniff tests performed, and odorant testing instrument calibration for five years.

(6) Exceptions. This rule does not apply to gas pipelines where the odorant would make the gas unfit for its intended purpose or where sniff tests would be hazardous to human health due to impurities in the gas stream such as hydrogen sulfide.

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

[Order 23-251—Filed November 8, 2023, 11:48 a.m., effective November 9, 2023]

Effective Date of Rule: November 9, 2023.

Purpose: The purpose of this emergency rule is to open commercial beach seine seasons in Area 12C.

Citation of Rules Affected by this Order: Amending WAC 220-354-210.

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

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

Reasons for this Finding: This rule is necessary to open Puget Sound Salmon Management and Catch Reporting Area 12C commercial beach seine seasons targeting chum salmon.

The latest in-season runsize estimate for Hood Canal chum salmon is large enough to allow this limited beach seine commercial opportunity.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 6, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-21000L Puget Sound salmon—Beach seine—Open periods.

Effective the day of November 9, 2023, the following provisions of WAC 220-354-210 regarding commercial Beach Seine open periods for Puget Sound Salmon Management and Catch Reporting Area 12C shall be as described below. All other provisions of WAC 220-354-210 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
12C	Open	7:00 a.m. - 7:00 p.m.	11/9

WSR 23-23-071

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Washington Medical Commission)

[Filed November 9, 2023, 12:04 p.m., effective November 9, 2023, 12:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Removing postgraduate medical training barriers to physician licensing. The Washington medical commission (commission) is extending its emergency rule that amends WAC 246-919-330 to eliminate the outdated requirement for consecutive years of training in no more than two programs. This change will remove a barrier for qualified applicants to obtain a physician license.

Due to the practitioner shortage, multiple pathways to board certification eligibility have been opened by the University of Washington (UW), the Accreditation Council for Graduate Medical Education (ACGME), and the American Board of Medical Specialties (ABMS). Multiple ABMS boards have programs that specifically target international medical graduates and place them in four-year training programs, with only years one and three ACGME accredited. The outcome of these programs would be physicians who are ineligible for a license through the commission, despite four years of postgraduate training through UW.

Separately and recently, applications have come through where the physician has six years of postgraduate training from their efforts to become dually licensed as a physician and a dentist. This clause has resulted in denial of those applications since parts of the training are accredited under ACGME and the rest under the Commission on Dental Accreditation (CODA), the dental profession equivalent of ACGME.

This rule continues the initial emergency rule filed on July 13, 2023, under WSR 23-15-056. The commission will continue this emergency rule until the post graduate medical training standards are adopted through the permanent rule-making process.

Citation of Rules Affected by this Order: Amending WAC 246-919-330.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.050.

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

Reasons for this Finding: The continuation of this emergency rule and the immediate amendment of WAC 246-919-330 is necessary for the preservation of public health, safety, and general welfare. Continued demand for health care professionals, especially qualified physicians, makes it essential that qualified applicants are able to obtain a license. This action will result in increasing the quantity of health care professionals able to respond to current and ongoing staffing 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 commission has begun rule making under a CR-101 filed on August 23, 2023, under WSR 23-18-005 to consider permanently adopting these amendments.

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

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

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

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

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

Date Adopted: November 9, 2023.

Kyle S. Karinen
Executive Director

OTS-4663.1

AMENDATORY SECTION (Amending WSR 20-22-003, filed 10/21/20, effective 11/21/20)

WAC 246-919-330 Postgraduate medical training. (1) Postgraduate medical training means clinical training approved by the commission in general medicine or surgery, or a specialty or subspecialty in the field of medicine or surgery as recognized by the American Board of Medical Specialties listed in the 2017-2018 ABMS Board Certification Report and new specialties or subspecialties approved by the commission.

(2) The commission approves only the following postgraduate clinical training courses:

(a) Programs accredited by the Accreditation Council for Graduate Medical Education (ACGME) at the time of residency.

(b) Programs accredited by the Royal College of Physicians and Surgeons of Canada (RCPSC) or the College of Family Physicians of Canada (CFPC), or programs accredited by the RCPSC or CFPC at the time of residency.

(3) Postgraduate medical training includes, but is not limited to, internships, residencies and medical or surgical fellowships.

(4) A physician must complete two (~~consecutive~~) years of postgraduate medical training (~~in no more than two programs~~). The physician must acquire this training after completion of a formal course of undergraduate medical instruction outlined in RCW 18.71.055. The commission will accept only satisfactory clinical performance evaluations.

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

[Order 23-253—Filed November 9, 2023, 3:30 p.m., effective November 9, 2023, 3:30 p.m.]

Effective Date of Rule: Immediately upon filing.

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

WAC 220-340-45500A: Closes Puget Sound commercial crab harvest in Crab Management Region 2-West one hour after official sunset on November 13, 2023, until further notice.

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

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

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

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

Reasons for this Finding: The harvestable share in Puget Sound commercial Crab Management Region 2-West is projected to be attained by November 13, 2023. There is sufficient allocation remaining to accommodate harvest in the Puget Sound commercial crab fishery in regions 1, 2-East, 3-1, 3-2, 3-3, and 3-4 until further notice. These provisions are in conformity with agreed-to management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable Treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: November 9, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

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

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

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through November 13, 2023
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through November 13, 2023
Subregion 3-1	Immediately until further notice.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately until further notice.
Subregion 3-4	Immediately until further notice.

(2) The area closed to commercial harvest in WAC 220-340-455 (2) (c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

NEW SECTION

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

During the "Open period" listed in WAC 220-340-45500Y(1), it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	40

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	40
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	25
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	40
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	30
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

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

REPEALER

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

WAC 220-340-45500Y Commercial crab fishery—Seasons and areas—Puget Sound. (23-248)

WAC 220-340-47000V Commercial crab fishery—Gear limits—Puget Sound and Marine (23-248)

WSR 23-23-074
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-254—Filed November 13, 2023, 8:19 a.m., effective November 13, 2023]

Effective Date of Rule: November 13, 2023.

Purpose: The purpose of this emergency rule is to close commercial gillnet and purse seine fisheries in Management Areas 12 and 12B.
 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 close scheduled openings for commercial purse seine and gillnet fisheries in Puget Sound Management and Catch Reporting Areas 12 and 12B. Recent data and observations indicate chum are returning below forecasted expectation to Hood Canal. These actions are necessary to ensure hatchery and escapement goals are met. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 9, 2023.

Kelly Susewind
 Director

NEW SECTION

WAC 220-354-12000H Puget Sound salmon—Purse seine—Open periods.
 Effective November 16 through November 23, 2023, the following provisions of WAC 220-354-120 regarding commercial purse seine open periods in Puget Sound Salmon Management and Catch Reporting areas 12 and 12B 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
12, 12B	11/16, 11/23	Closed	NA

NEW SECTION

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

Effective November 13 through November 21, 2023, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting areas 12 and 12B 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
12, 12B	11/13, 11/16, 11/21	Closed	NA	NA

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

[Order 23-255—Filed November 13, 2023, 4:42 p.m., effective November 15, 2023]

Effective Date of Rule: November 15, 2023.

Purpose: The purpose of this rule is to return fisheries in Toutle River, North Fork Toutle River, and Green River to permanent rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000G.

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

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

Reasons for this Finding: This emergency rule is necessary to return Toutle River, North Fork Toutle River, and Green River to permanent rules.

Fall Chinook broodstock collection at the North Toutle hatchery is complete for the season. Previous low water conditions in the Green River have improved to acceptable levels in the reach from the mouth to the hatchery, allowing for improved spawning activity and fish movement upstream.

There is insufficient time to file permanent rules.

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

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

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

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

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

Date Adopted: November 13, 2023.

Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective November 15, 2023:

WAC 220-312-03000G Freshwater exceptions to statewide rules—Southwest. (23-225)

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

[Order 23-256—Filed November 14, 2023, 8:46 a.m., effective November 16, 2023]

Effective Date of Rule: November 16, 2023.

Purpose: The purpose of this emergency rule is to return fishing seasons in the Stillaguamish River and its forks to permanent rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000U.

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

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

Reasons for this Finding: This emergency rule is necessary to return fishing seasons in the Stillaguamish River and its forks to permanent rules.

Stillaguamish River Chinook salmon spawning activities are completed for the season; protective measures are no longer necessary. This action will open planned gamefish seasons in the system.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 14, 2023.

Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective November 16, 2023:

WAC 220-312-04000U Freshwater exceptions to statewide rules—Puget Sound. (23-212)

WSR 23-23-093
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 14, 2023, 1:13 p.m., effective November 16, 2023]

Effective Date of Rule: November 16, 2023.

Purpose: The department is extending emergency amendments to WAC 388-310-1600 WorkFirst—sanctions. These amendments expand good cause for not participating in WorkFirst program activities if a recipient is experiencing a hardship as defined in rule. These amendments are necessary to implement 2SHB 1447 (chapter 418, Laws of 2023), effective July 23, 2023.

Citation of Rules Affected by this Order: Amending WAC 388-310-1600.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.025, 74.08.090, 74.09.035, 74.09.530, 74.62.030; and chapters 74.08A and 74.12 RCW.

Other Authority: 2SHB 1447 (chapter 418, Laws of 2023).

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 amendments support public health, safety, and welfare by supporting WorkFirst families who are experiencing hardship. The amendments are also necessary to implement 2SHB 1447 (chapter 418, Laws of 2023), effective July 23, 2023. The department is concurrently proceeding with the permanent rule-making process. Refer to CR-101 filed as WSR 23-13-025.

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: November 14, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4981.4

AMENDATORY SECTION (Amending WSR 21-12-030, filed 5/24/21, effective 7/1/21)

WAC 388-310-1600 WorkFirst—Sanctions. (1) What WorkFirst requirements do I have to meet?

You must do the following when you are a mandatory WorkFirst participant:

- (a) Give the department the information we need to develop your individual responsibility plan (IRP) (see WAC 388-310-0500);
- (b) Show that you are participating fully to meet all of the requirements listed on your individual responsibility plan;
- (c) Go to scheduled appointments listed in your individual responsibility plan;
- (d) Follow the participation and attendance rules of the people who provide your assigned WorkFirst services or activities; and
- (e) Accept available paid employment when it meets the criteria in WAC 388-310-1500.

(2) What happens if I don't meet WorkFirst requirements?

(a) If you do not meet WorkFirst requirements, we will send you a letter telling you what you did not do, and inviting you to a noncompliance case staffing.

(i) A noncompliance case staffing is a meeting with you, your case manager, and other people who are working with your family, such as representatives from tribes, community or technical colleges, employment security, department of children, youth, and families, family violence advocacy providers or limited-English proficient (LEP) pathway providers to review your situation and compliance with your participation requirements.

(ii) You will be notified when your noncompliance case staffing is scheduled so you can attend.

(iii) You may invite anyone you want to come with you to your noncompliance case staffing.

(b) You will have (~~ten~~) 10 days to contact us so we can talk with you about your situation. You can contact us in writing, by phone, by going to the noncompliance case staffing described in the letter, or by asking for an individual appointment.

(c) If you do not contact us within (~~ten~~) 10 days, we will make sure you have been screened for family violence and other barriers to participation and that we provided necessary supplemental accommodations as required by chapter 388-472 WAC. We will use existing information to decide whether:

(i) You were unable to do what was required; or

(ii) You were able, but refused, to do what was required.

(d) If you had a good reason not to do a required activity we will work with you and may change the requirements in your individual responsibility plan if a different WorkFirst activity would help you move towards independence and employment sooner. If you have been unable to meet your WorkFirst requirements because of family violence, you and your case manager will develop an individual responsibility plan to help you with your situation, including referrals to appropriate services.

(3) What is considered a good reason for not doing what WorkFirst requires?

You have a good reason if you were not able to do what WorkFirst requires (or get an excused absence, described in WAC 388-310-0500(5))

due to a significant problem or event outside your control. Some examples of good reasons include, but are not limited to:

- (a) You had an emergent or severe physical, mental, or emotional condition, confirmed by a licensed health care professional that interfered with your ability to participate;
- (b) You were threatened with or subjected to family violence;
- (c) You could not locate child care for your children under ~~((thirteen))~~ 13 years that was:
 - (i) Affordable (did not cost you more than your copayment would under the working connections child care program in chapter 110-15 WAC);
 - (ii) Appropriate (licensed, certified, or approved under federal, state, or tribal law and regulations for the type of care you use and you were able to choose, within locally available options, who would provide it); and
 - (iii) Within a reasonable distance (within reach without traveling farther than is normally expected in your community).
- (d) You could not locate other care services for an incapacitated person who lives with you and your children ~~((-))~~ ;
- (e) You had an immediate legal problem, such as an eviction notice; ~~((-))~~
- (f) You are a person who gets necessary supplemental accommodation (NSA) services under chapter 388-472 WAC and your limitation kept you from participating. If you have a good reason because you need NSA services, we will review your accommodation plan ~~((-))~~ ; or
- (g) You have another hardship(s) that would reasonably prevent you from participating. For purposes of this subsection, a hardship is defined as a significant problem or event.

(4) What happens in my noncompliance case staffing?

- (a) At your noncompliance case staffing we will ensure you were offered the opportunity to participate and discuss with you:
 - (i) Whether you had a good reason for not meeting WorkFirst requirements ~~((-))~~ ;
 - (ii) What happens if you are sanctioned;
 - (iii) How you can participate and get out of sanction status;
 - (iv) How you and your family benefit when you participate in WorkFirst activities;
 - (v) That your case may be closed after you have been in grant reduction sanction status for ~~((ten))~~ 10 months in a row;
 - (vi) How you plan to care for and support your children if your case is closed. We will also discuss the safety of your family, as needed, using the guidelines under RCW 26.44.030; and
 - (vii) How to reapply if your case is closed.
- (b) If you do not come to your noncompliance case staffing, we will make a decision based on the information we have. We will send you a letter letting you know whether we found that you had a good reason for not meeting WorkFirst requirements.

(5) What if we decide that you did not have a good reason for not meeting WorkFirst requirements?

- (a) Before you are placed in sanction, a supervisory level employee will review your case to make sure:
 - (i) You knew what was required;
 - (ii) You were told how you can resume WorkFirst participation to avoid or end your sanction;
 - (iii) We tried to talk to you and encourage you to participate;
 and

(iv) You were given a chance to tell us if you were unable to do what we required.

(b) If we decide that you did not have a good reason for not meeting WorkFirst requirements, and a supervisory level employee approves the sanction and sanction penalties, we will send you a letter that tells you:

(i) What you failed to do;

(ii) That you are in sanction status;

(iii) Penalties that will be applied to your grant;

(iv) When the penalties will be applied;

(v) How to request an administrative hearing if you disagree with this decision; and

(vi) How to end the penalties and get out of sanction status.

(c) We will also provide you with information about resources you may need if your case is closed. If you are sanctioned, then we will actively attempt to contact you another way so we can talk to you about the benefits of participation and how to end your sanction.

(6) What is sanction status?

When you are a mandatory WorkFirst participant, you must follow WorkFirst requirements to qualify for your full grant. If you or someone else on your grant doesn't do what is required and you can't prove that you had a good reason, you are placed in WorkFirst sanction status.

(7) Are there penalties when you or someone in your household goes into sanction status?

When you or someone in your household is in sanction status, we impose penalties. The penalties last until you or the household member meet WorkFirst requirements. Your household will only enter sanction status if we determine that you or someone else in your household did not have a good reason for failing to meet the WorkFirst requirements.

(a) You will receive a grant reduction sanction penalty following two months of noncompliance(~~(-)~~);

(b) Your grant is reduced by one person's share or (~~(forty per-~~ cent) 40%, whichever is more(~~(-)~~);

(c) The reduction is effective the first of the month following (~~(ten)~~) a 10-day notice from the department; and

(d) Your case may be closed effective the first of the month after your grant has been reduced for (~~(ten)~~) 10 months in a row.

(8) What happens before your case is closed due to sanction?

(a) Before we close your case due to sanction status, we will send you a letter to tell you:

(i) What you failed to do;

(ii) When your case will be closed;

(iii) How you can request an administrative hearing if you disagree with this decision;

(iv) How you can end your penalties and keep your case open (if you are able to participate for four weeks in a row before we close your case); and

(v) How your participation before your case is closed can be used to meet the participation requirement in subsection (12).

(b) Attempt to contact you each month to begin the process of ending penalties and getting out of sanction status.

(9) What happens to my WorkFirst sanction after July 1, 2021?

If your case enters sanction status after July 1, 2021, your case may be closed after you have been in grant reduction sanction status for (~~(ten)~~) 10 months in a row.

(10) How do I resume participation to avoid or end sanction status?

(a) You must provide the information we requested to develop your individual responsibility plan; ~~((and/))~~ or

(b) Start and continue to do your required WorkFirst activities for four weeks in a row (that is, ~~((twenty-eight))~~ 28 calendar days). The four weeks starts on the day you complete your comprehensive evaluation and you agree to your individual responsibility plan activities.

(11) What happens when I get out of sanction status before my case is closed?

When you get out of sanction status before your case is closed, your grant will be restored to the level you are eligible for beginning the first of the month following your four weeks of participation. For example, if you finished your four weeks of participation on June 15, your grant would be restored on July 1.

(12) What if I reapply for TANF or SFA and I was in sanction status when my case closed?

(a) For cases that close on or after July 1, 2021:

(i) If your case closed due to sanction, you will need to follow the sanction reapplication process in subsection (13).

(ii) If your case closed for another reason while you were in sanction status and is reopened, you will reopen in grant reduction sanction status. For example, if you closed while you were in month four of grant reduction sanction status, your grant will be opened in month five of grant reduction sanction status.

(b) For cases that closed prior to July 1, 2021, your case will not open in sanction status, and subsection (13) will not apply.

(13) What if I reapply for TANF or SFA after my case is closed due to sanction?

If you reapply for TANF or SFA after your case is closed due to sanction, you must participate for four weeks in a row before you can receive cash. Once you have met your four week participation requirement, your cash benefits will start, going back to the date we had all the other information we needed to make an eligibility decision.

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

[Order 23-257—Filed November 15, 2023, 4:04 p.m., effective November 15, 2023, 4:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open chum salmon retention in portions of Marine Area 13 and Kennedy Creek.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000N; and amending WAC 220-312-040 and 220-313-060.

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

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

Reasons for this Finding: This emergency rule is necessary to open chum retention in portions of Marine Area 13 and Kennedy Creek.

In-season estimates of chum returns to Puget Sound indicate that there are sufficient returning numbers to allow for limited recreational harvest in the areas listed and presents low risk of negatively impacting natural stocks returning to South Sound.

These actions have been agreed to with comanagers. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 15, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000P Puget Sound salmon—Saltwater seasons and daily limits. Effective immediately, through December 7, 2023, salmon rules for Catch Record Card Area 13 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:

(a) Catch Record Card Area 13 waters northerly and westerly of a line projected from the Johnson Point (47°10'40.8"N, 122°48'53.3"W) to Devil's Head (47°10'01.2"N, 122°46'01.5"W):

Salmon: Daily limit 2. Release wild coho and wild Chinook.

(b) Catch Record Card Area 13 waters of Carr Inlet northerly of a line projected from Penrose Point (47°15'53.6"N, 122°44'11.5"W) to Green Point (47°16'55.2"N, 122°41'41.8"W):

Salmon: Daily limit 2. Release wild coho and wild Chinook.

NEW SECTION

WAC 220-312-04000V Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through December 7, 2023, recreational salmon fishing seasons for Kennedy Creek shall be modified as follows, during dates listed below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Kennedy Creek from mouth (an arc 500 yards east of the midpoint of the northbound Hwy. 101 Bridge) to the northbound Hwy. 101 Bridge:

- (a) Salmon daily limit 2. Release wild Chinook and wild coho.
- (b) Night closure and Selective gear rules in effect.

REPEALER

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

WAC 220-313-06000N Puget Sound salmon—Saltwater seasons and daily limits. (23-250)

WSR 23-23-126
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 16, 2023, 1:52 p.m., effective November 16, 2023, 1:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This extension of emergency rules deals with WAC 388-71-0876 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training including required specialty training? and 388-112A-0081 When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training including required specialty training? The department of social and health services (department) is requiring that long-term care workers (LTCWs) complete training and certification by certain dates in response to the COVID-19 public health emergency. The department divided the group of LTCWs into cohorts based on the employee's date of hire or rehire. The rule requires each cohort to complete the requirements by deadlines in rule with the "oldest" LTCWs having the first deadline and then working through the groups chronologically. The department is working in concert with the department of health and will defer to their emergency rules related to extending certification deadlines. The current long term certification deadline for the last hire group is April 30, 2025. A CR-102 was filed under WSR 23-18-069 and a public hearing was held. Permanent rule making is in the process but will not be completed by the time the current emergency rule is set to expire.

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

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

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

Reasons for this Finding: LTCWs hired or rehired during the COVID-19 public health emergency are required to complete certain training and certification requirements within specific deadlines. Stakeholders have reported that the number of workers in multiple cohorts still needing training and certification far exceeds the number that can be trained and tested by the current deadlines. This will result in LTCWs failing to complete the requirements in time and create risk to clients being able to access a qualified worker for provision of their personal care services. To prevent this, to avoid duplication and potential conflict of emergency rules, and to allow sufficient time for permanent rules to be in place, an additional emergency will be necessary.

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

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

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

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

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

Date Adopted: November 14, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4951.7

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

WAC 388-71-0876 When must long-term care workers who were working or hired during or immediately after the COVID-19 public health emergency complete training, including required specialty training?

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

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
8/17/2019 to 9/30/2020	((10/31/2022)) <u>1/31/2023</u>
10/1/2020 to 4/30/2021	((1/31/2023)) <u>4/30/2023</u>
5/1/2021 to 3/31/2022	((4/30/2023)) <u>7/31/2023</u>
4/1/2022 to 9/30/2022	((8/31/2023)) <u>10/31/2023</u>
10/1/2022 - ((12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>6/30/2023</u>	((9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>11/30/2023</u>
((After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later)) <u>Beginning 7/1/2023</u>	Standard training requirement of 120 days <u>from hire date</u>

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification ((as follows:)) according to WAC 246-980-011.

((Worker hired or rehired during the time frame of:	Must be certified as a home care aide no later than:
8/17/2019 to 9/30/2020	<u>1/19/2023</u>

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

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

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

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

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

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

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
8/17/2019 to 9/30/2020	((10/31/2022)) <u>1/31/2023</u>
10/1/2020 to 4/30/2021	((1/31/2023)) <u>4/30/2023</u>
5/1/2021 to 3/31/2022	((4/30/2023)) <u>7/31/2023</u>
4/1/2022 to 9/30/2022	((8/31/2023)) <u>10/31/2023</u>
10/1/2022 - ((12/31/2022 or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>6/30/2023</u>	((9/30/2023 or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later)) <u>11/30/2023</u>

Worker hired or rehired during the time frame of:	Must complete basic training no later than:
((After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning 1/1/2023, whichever is later)) Beginning 7/1/2023	Standard training requirement of 120 days from hire date

(2) Unless exempt from certification as described in WAC 246-980-025, a worker affected by the COVID-19 public health emergency who is required to be certified as a home care aide must obtain certification ((as follows:)) according to WAC 246-980-011.

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

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

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

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

WSR 23-23-128
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-258—Filed November 16, 2023, 4:53 p.m., effective November 16, 2023, 4:53 p.m.]

Effective Date of Rule: Immediately upon filing.

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

WAC 220-340-45500B: Closes Puget Sound commercial crab harvest in Crab Management Region 2-East one hour after official sunset on November 18, 2023, until further notice.

WAC 220-340-47000X: Increases the pot limit in Crab Management Region 3-2 to 35 pots per license.

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

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

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

Reasons for this Finding: The harvestable share in Puget Sound commercial Crab Management Region 2-East is projected to be attained by November 18, 2023. There is sufficient allocation remaining to accommodate harvest in the Puget Sound commercial crab fishery in Regions 1, 3-1, 3-2, 3-3, and 3-4 until further notice. Crab Management Region 2-West will remain closed due to the attainment of the state share. The pot limit in Crab Management Region 3-2 has been increased to 35 pots following a request from industry. These provisions are in conformity with agreed-to management plans with applicable tribes. Co-management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 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: November 16, 2023.

Kelly Susewind
Director

NEW SECTION

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

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

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, through November 18, 2023.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately through November 18, 2023.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Subregion 3-1	Immediately, until further notice.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Immediately, until further notice.

(2) The area closed to commercial harvest in WAC 220-340-455 (2) (c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

NEW SECTION

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

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

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

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	40
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	40
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Subregion 3-1	40
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120 (6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	35
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

REPEALER

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

- WAC 220-340-45500A Commercial crab fishery—Seasons and areas—Puget Sound. (23-253)
- WAC 220-340-47000W Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (23-253)

WSR 23-23-130
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed November 17, 2023, 10:15 a.m., effective November 17, 2023]

The aging and long-term support administration (ALTSA) requests the rescission of the emergency for WAC 388-97-1080 and 388-97-1090 [388-97-1081, 388-97-1082, and 388-97-1091] rules from nursing services filed under WSR 23-20-105 on October 3, 2023. The rescission of WSR 23-20-105 is necessary so that the emergency rule text is no longer in effect in response to the Governor's Proclamation 20-18 being rescinded.

WAC 388-97-1081 provides direction for the rule to be implemented through October 27, 2023.

WAC 388-97-1082 and 388-97-1091 include the language: "*The department must repeal this rule when staffing returns to pre-pandemic levels or by October 27, 2023, whichever occurs first.*" Staffing has not returned to prepandemic levels; thus, the date came first. This rule is no longer in effect after October 27, 2023.

This rescission is effective immediately upon filing.

Katherine I. Vasquez
Rules Coordinator

WSR 23-23-136

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed November 17, 2023, 3:14 p.m., effective November 17, 2023, 3:14 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending the definition of mental health professional and creating certified agency affiliated counselor (C-AAC) and licensed agency affiliated counselor (L-AAC) credentials.

Amending WAC 246-341-0200 and 246-341-0515 in chapter 246-341 WAC, Behavioral health agency licensing and certification requirements, and WAC 246-810-010, 246-810-015, and 246-810-990 in chapter 246-810 WAC, Counselors.

2SHB 1724 (chapter 425, Laws of 2023) made several immediate changes impacting behavioral health agencies, including amending the definition of "mental health professional" (MHP) and creating two new agency affiliated counselor (AAC) credentials. Because 2SHB 1724's amendments to the MHP definition and AAC credentials went into effect immediately and were designated as necessary for the immediate preservation of the public health, safety, or general welfare, the department of health (department) implemented these changes by emergency rule under WSR 23-16-031, filed on July 21, 2023.

This emergency rules continues without change the original emergency rule. The emergency rule:

- Amends chapter 246-341 WAC to address language that conflicts with 2SHB 1724, deleting an outdated definition of MHP requirements and updating an incorrect cross-reference.
- Amends chapter 246-810 WAC to expand existing language to establish two new credentials, C-AAC and L-AAC. The amendments align rule language with statute and revise the registered AAC fees to apply to all AAC types.

The emergency rules will be continued while permanent rule making is in progress under WSR 23-16-044, filed on July 25, 2023.

Citation of Rules Affected by this Order: Amending WAC 246-341-0200, 246-341-0515, 246-810-010, 246-810-015, and 246-810-990.

Statutory Authority for Adoption: RCW 18.19.050, 71.24.037.

Other Authority: 2SHB 1724 (chapter 425, Laws of 2023).

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 legislature established in 2SHB 1724, section 33, that many sections of the bill are "necessary for the immediate preservation of the public peace, health, or support of the state government and its existing public institutions and take effect immediately." Sections 13 through 20, which create the new AAC credentials and amends the definition of MHP, are among the sections that became effective immediately.

Under 2SHB 1724, RCW 71.05.020 was amended to define an MHP as an individual practicing within their credential's scope of practice. Qualifying credentials include the certified and licensed AAC credential, but not the current AAC registration. Prior to the passage of 2SHB 1724, many MHPs performed assessments and made diagnoses with only a registration. After 2SHB 1724 became effective, however, they

were required to obtain an AAC certification, AAC license, or other qualifying credential in order to continue providing these services. Establishing the new AAC credentials immediately by emergency rule and continuing these emergency rules allows MHPs to transition into the new credentials and continue providing essential behavioral health services while permanent rules are in progress.

If the department had waited to make these amendments through standard rule making, MHPs with an AAC registration would be both unable to continue assessing and diagnosing due to the changed MHP definition and unable to obtain a higher AAC credential that would allow them to continue that work. Continuing these emergency rules will allow MHPs who are AACs to continue serving Washington residents with behavioral health needs.

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 5, 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 5, 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 5, Repealed 0.

Date Adopted: November 17, 2023.

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

OTS-4676.1

AMENDATORY SECTION (Amending WSR 22-24-091, filed 12/6/22, effective 5/1/23)

WAC 246-341-0200 Behavioral health—Definitions. The definitions in this section and RCW 71.05.020, 71.24.025, and 71.34.020 apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the designated person responsible for the day-to-day operation of either the licensed behavioral health agency, or certified treatment service, or both.

(2) "Adult" means an individual 18 years of age or older. For purposes of the medicaid program, adult means an individual 21 years of age or older.

(3) "ASAM criteria" means admission, continued service, transfer, and discharge criteria for the treatment of substance use disorders as published by the American Society of Addiction Medicine (ASAM).

(4) "Assessment" means the process of obtaining all pertinent bio-psychosocial information, as identified by the individual, and

family and collateral sources, for determining a diagnosis and to plan individualized services and supports.

(5) "Behavioral health" means the prevention, treatment of, and recovery from any or all of the following disorders: Substance use disorders, mental health disorders, co-occurring disorders, or problem gambling and gambling disorders.

(6) "Behavioral health agency," "licensed behavioral health agency," or "agency" means an entity licensed by the department to provide behavioral health services under chapter 71.24, 71.05, or 71.34 RCW.

(7) "Behavioral health service" means the specific service(s) that may be provided under an approved certification.

(8) "Branch site" means a physically separate licensed site, governed by the same parent organization as the main site, where qualified staff provides certified treatment services.

(9) "Campus" means an area where all of the agency's buildings are located on contiguous properties undivided by:

(a) Public streets, not including alleyways used primarily for delivery services or parking; or

(b) Other land that is not owned and maintained by the owners of the property on which the agency is located.

(10) "Care coordination" or "coordination of care" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs of an individual. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies, organizing, facilitating and participating in team meetings, and providing for continuity of care by creating linkages to and managing transitions between levels of care.

(11) "Certified" or "certification" means the status given by the department that authorizes the agency to provide specific types of behavioral health services included under the certification category.

(12) "Child," "minor," and "youth" mean:

(a) An individual under the age of 18 years; or

(b) An individual age 18 to 21 years who is eligible to receive and who elects to receive an early and periodic screening, diagnostic, and treatment (EPSDT) medicaid service. An individual age 18 to 21 years who receives EPSDT services is not considered a "child" for any other purpose.

(13) "Clinical supervision" means regular and periodic activities performed by a mental health professional, co-occurring disorder specialist, or substance use disorder professional licensed, certified, or registered under Title 18 RCW. Clinical supervision may include review of assessment, diagnostic formulation, individual service plan development, progress toward completion of care, identification of barriers to care, continuation of services, authorization of care, and the direct observation of the delivery of clinical care. In the context of this chapter, clinical supervision is separate from clinical supervision required for purposes of obtaining supervised hours toward fulfilling requirements related to professional licensure under Title 18 RCW.

(14) "Complaint" means an alleged violation of licensing or certification requirements under chapters 71.05, 71.12, 71.24, 71.34 RCW, and this chapter, which has been authorized by the department for investigation.

(15) "Consent" means agreement given by an individual after being provided with a description of the nature, character, anticipated results of proposed treatments and the recognized serious possible

risks, complications, and anticipated benefits, including alternatives and nontreatment, that must be provided in a terminology that the individual can reasonably be expected to understand. Consent can be obtained from an individual's parent or legal representative, when applicable.

(16) "Consultation" means the clinical review and development of recommendations by persons with appropriate knowledge and experience regarding activities or decisions of clinical staff, contracted employees, volunteers, or students.

(17) "Co-occurring disorder" means the coexistence of both a mental health and a substance use disorder. Co-occurring treatment is a unified treatment approach intended to treat both disorders within the context of a primary treatment relationship or treatment setting.

(18) "Cultural competence" or "culturally competent" means the ability to recognize and respond to health-related beliefs and cultural values, disease incidence and prevalence, and treatment efficacy. Examples of culturally competent care include striving to overcome cultural, language, and communications barriers, providing an environment in which individuals from diverse cultural backgrounds feel comfortable discussing their cultural health beliefs and practices in the context of negotiating treatment options, encouraging individuals to express their spiritual beliefs and cultural practices, and being familiar with and respectful of various traditional healing systems and beliefs and, where appropriate, integrating these approaches into treatment plans.

(19) "Deemed" means a status that is given to a licensed behavioral health agency as a result of the agency receiving accreditation by a recognized behavioral health accrediting body which has a current agreement with the department.

(20) "Disability" means a physical or mental impairment that substantially limits one or more major life activities of the individual and the individual:

(a) Has a record of such an impairment; or

(b) Is regarded as having such impairment.

(21) "Face-to-face" means either in person or by way of synchronous video conferencing.

(22) "Individual service record" means either a paper, or electronic file, or both that is maintained by the behavioral health agency and contains pertinent behavioral health, medical, and clinical information for each individual served.

(23) "Licensed" or "licensure" means the status given to behavioral health agencies by the department under its authority to license and certify mental health and substance use disorder programs under chapters 71.05, 71.12, 71.34, and 71.24 RCW and its authority to certify problem gambling and gambling disorder treatment programs under RCW 43.70.080(5) and 41.05.750.

(24) "Medical practitioner" means a physician licensed under chapter 18.57 or 18.71 RCW, advance registered nurse practitioner (ARNP) licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A RCW.

(25) "Mental health disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

(26) "Mental health professional" or "MHP" means a person who meets the (~~qualifications in WAC 246-341-0515 (4)~~) definition in RCW 71.05.020.

(27) "Peer counselor" means the same as defined in WAC 182-538D-0200.

(28) "Peer support" means services provided by peer counselors to individuals under the supervision of a mental health professional or individual appropriately credentialed to provide substance use disorder treatment. Peer support provides scheduled activities that promote recovery, self-advocacy, development of natural supports, and maintenance of community living skills.

(29) "Problem gambling and gambling disorder" means one or more of the following disorders:

(a) "Gambling disorder" means a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences;

(b) "Problem gambling" is an earlier stage of gambling disorder that compromises, disrupts, or damages family or personal relationships or vocational pursuits.

(30) "Progress notes" means permanent written or electronic record of services and supports provided to an individual documenting the individual's participation in, and response to, treatment or support services, progress in recovery, and progress toward intended outcomes.

(31) "Secretary" means the secretary of the department of health.

(32) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement chapters 71.05, 71.24, and 71.34 RCW for delivery of behavioral health services.

(33) "Substance use disorder professional" or "SUDP" means a person credentialed by the department as a substance use disorder professional (SUDP) under chapter 18.205 RCW.

(34) "Substance use disorder professional trainee" or "SUDPT" means a person credentialed by the department as a substance use disorder professional trainee (SUDPT) under chapter 18.205 RCW.

(35) "Summary suspension" means the immediate suspension of either a facility's license or program-specific certification or both by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department.

(36) "Supervision" means the regular monitoring of the administrative, clinical, or clerical work performance of a staff member, trainee, student, volunteer, or employee on contract by a person with the authority to give direction and require change.

(37) "Suspend" means termination of a behavioral health agency's license or program specific certification to provide behavioral health treatment program service for a specified period or until specific conditions have been met and the department notifies the agency of the program's reinstatement of license or certification.

AMENDATORY SECTION (Amending WSR 22-24-091, filed 12/6/22, effective 5/1/23)

WAC 246-341-0515 Personnel—Agency staff requirements. Each behavioral health agency must ensure that all of the following staff requirements are met:

(1) All staff providing clinical services are appropriately credentialed for the services they provide, which may include a co-occurring disorder specialist enhancement.

(2) All staff providing clinical services receive clinical supervision.

(3) An agency providing group counseling or group therapy must have a staff ratio of at least one staff member to every 16 individuals during group counseling or therapy sessions.

(4) ~~((A mental health professional is:~~

~~(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric nurse, or social worker as defined in chapters 71.05 and 71.34 RCW;~~

~~(b) A person who is licensed by the department as a mental health counselor or mental health counselor associate, marriage and family therapist, or marriage and family therapist associate; or~~

~~(c) An agency staff member with a designation given by the department or an attestation by the licensed behavioral health agency that the person meets the following:~~

~~(i) Holds a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, experience that was gained under the supervision of a mental health professional recognized by the department or attested to by the licensed behavioral health agency;~~

~~(ii) Who meets the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or~~

~~(iii) Who had an approved waiver to perform the duties of a mental health professional (MHP), that was requested by the behavioral health organization (BHO) and granted by the mental health division prior to July 1, 2001.~~

~~(5)) An agency providing problem gambling and gambling disorder treatment services must ensure staffing in accordance with WAC 246-341-1200.~~

OTS-4679.2

AMENDATORY SECTION (Amending WSR 11-22-087, filed 11/1/11, effective 12/2/11)

WAC 246-810-010 Definitions. The definitions in this section apply throughout this chapter unless the content clearly requires otherwise.

(1) "Agency" means:

(a) An agency or facility operated, licensed, or certified by the state of Washington to provide a specific counseling service or services;

(b) A federally recognized Indian tribe located within the state; or

(c) A county as listed in chapter 36.04 RCW.

(2) "Agency affiliated counselor" means a person registered, certified, or licensed under chapter 18.19 RCW, and this chapter, who is

engaged in counseling and employed by an agency listed in WAC 246-810-016 or an agency recognized under WAC 246-810-017 to provide a specific counseling service or services.

(3) "Certified adviser" means a person certified under chapter 18.19 RCW, and this chapter, who is engaged in private practice counseling to the extent authorized in WAC 246-810-021.

(4) "Certified counselor" means a person certified under chapter 18.19 RCW, and this chapter, who is engaged in private practice counseling to the extent authorized in WAC 246-810-0201.

(5) "Client" means an individual who receives or participates in counseling or group counseling.

(6) "Consultation" means the professional assistance and practice guidance that a certified counselor receives from a counseling-related professional credentialed under chapter 18.130 RCW. This may include:

(a) Helping the certified counselor focus on counseling practice objectives;

(b) Refining counseling modalities;

(c) Providing support to progress in difficult or sensitive cases;

(d) Expanding the available decision-making resources; and

(e) Assisting in discovering alternative approaches.

(7) "Counseling" means employing any therapeutic techniques including, but not limited to, social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist, or attempt to assist, an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purpose of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(8) "Counselor" means an individual who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, agency affiliated counselors, certified counselors, certified advisers, hypnotherapists, and until July 1, 2010, registered counselors.

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

(10) "Fee" as referred to in RCW 18.19.030 means compensation received by the counselor for counseling services provided, regardless of the source.

(11) "Hypnotherapist" means a person registered under chapter 18.19 RCW, and this chapter, who is practicing hypnosis as a modality.

(12) "Licensed health care practitioner" means a licensed practitioner under the following chapters:

(a) Physician licensed under chapter 18.71 RCW.

(b) Osteopathic physician licensed under chapter 18.57 RCW.

(c) Psychiatric registered nurse practitioner licensed under chapter 18.79 RCW.

(d) Naturopathic physician licensed under chapter 18.36A RCW.

(e) Psychologist licensed under chapter 18.83 RCW.

(f) Independent clinical social worker, marriage and family therapist, or advanced social worker licensed under chapter 18.225 RCW.

(13) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in WAC 246-810-0201 or 246-810-021.

(14) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the *Diagnostic and Statistical Manual of Mental Disorders*, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(15) "Recognized" means acknowledged or formally accepted by the secretary.

(16) "Recognized agency or facility" means an agency or facility that has requested and been recognized under WAC 246-810-017 to employ agency affiliated counselors to perform a specific counseling service, or services for those purposes only.

(17) "Secretary" means the secretary of the department of health or the secretary's designee.

(18) "Supervision" means the oversight that a counseling-related professional credentialed under chapter 18.130 RCW provides.

(19) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-810-015 Agency affiliated counselor: Scope of practice and credentialing requirements.

(1) ~~((An))~~ (a) A registered agency affiliated counselor may only provide counseling services as part of ((his or her)) their employment ((as an agency affiliated counselor)) for a recognized agency.

(b) A certified agency affiliated counselor may provide counseling services and may provide provisional mental health assessment and diagnosis services under supervision as required by chapter 18.19 RCW, and as part of their employment for a recognized agency.

(c) A licensed agency affiliated counselor may provide counseling services, independently conduct mental health assessments, and make mental health diagnoses as part of their employment for a recognized agency.

(2) An applicant for ~~((an))~~ any agency affiliated counselor credential must be employed by, or have an offer of employment from, an agency or facility identified in WAC 246-810-016.

(3) (a) An applicant for a certified agency affiliated counselor credential must meet the education and experience requirements of RCW 18.19.090(3).

(b) An applicant for a licensed agency affiliated counselor credential must meet the education and experience requirements of RCW 18.19.090(4).

(4) (a) Applicants must submit an application to the department within the first ~~((thirty))~~ 30 days of employment at an agency in order to continue working while the application is processed.

(b) Applicants must complete any outstanding deficiencies within ~~((ninety))~~ 90 days of the date the department issues a deficiency letter. If the applicant does not satisfy the outstanding licensure requirements within ~~((ninety))~~ 90 days, the applicant must stop working.

AMENDATORY SECTION (Amending WSR 23-07-057, filed 3/9/23, effective 6/1/23)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Under chapter 246-12 WAC, a counselor must renew their credential every year on the practitioner's birthday.

(2) Examination and reexamination fees are the responsibility of the applicant and are paid directly to the testing company.

(3) The following nonrefundable fees will be charged:

Title	Fee
Registered hypnotherapist:	
Application and registration	\$155.00
Renewal	\$80.00
Late renewal penalty	\$75.00
Expired registration reissuance	\$75.00
Duplicate registration	\$10.00
Verification of registration	\$25.00
Certified counselor:	
Application and certification	\$680.00
Examination or reexamination	\$85.00
Renewal	\$800.00
Late renewal penalty	\$300.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Certified adviser:	
Application and certification	\$620.00
Examination or reexamination	\$85.00
Renewal	\$745.00
Late renewal penalty	\$300.00
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
((Registered)) Agency affiliated counselor:	
Application and ((registration)) <u>credentialing</u>	\$175.00
Renewal	\$185.00
Late renewal penalty	\$95.00
Expired ((registration)) <u>credential</u> reissuance	\$50.00
Duplicate ((registration)) <u>credential</u>	\$10.00
Verification of ((registration)) <u>credential</u>	\$25.00

WSR 23-23-138
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-259—Filed November 17, 2023, 5:04 p.m., effective November 20, 2023]

Effective Date of Rule: November 20, 2023.

Purpose: The purpose of this emergency rule is to open purse seine test fisheries in Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11.

Citation of Rules Affected by this Order: Repealing WAC 220-354-12000D; and amending WAC 220-354-120.

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

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

Reasons for this Finding: This emergency rule is needed to allow the purse seine vessels F/V Harbor Gem, the F/V Lisa Marie and the F/V Tradition to conduct test fisheries in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11. These test fisheries are necessary to collect GSI data and to inform the in-season update models; and have been agreed to by comanagers. This information is necessary to sustainably manage Puget Sound chum 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: November 17, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000I Puget Sound salmon—Purse seine—Open periods. Effective November 20 through November 27, 2023, the purse seine vessels F/V Harbor Gem, the F/V Lisa Marie and the F/V Tradition may carry out purse seine test fishery operations within Puget Sound Salmon Management and Catch Reporting Areas 11.

(1) Allowed fishing period is November 20, 2023.

(2) Area 11: Only chum salmon may be retained. All other salmon species must be released. WDFW staff must be onboard vessel while fishing.

(3) Area 9, non-retention fishery: all fish must be released. WDFW staff must be onboard vessel when fishing.

(4) Area 9/10 Apple Cove Test Fishery: Administered by Northwest Indian Fisheries Commission staff. All salmon species may be retained.

(5) Weekly schedule by Area and vessel:

Week	F/V Harbor Gem Apple Cove/Kingston Area 9/10	F/V Tradition Command Point; Area 11; West Pass	F/V Lisa Marie Point Beals; Area 11; East Pass
47	Mon 11/20/2023	Mon 11/20/2023	Mon 11/20/2023

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 immediately:

WAC 220-354-12000D Puget Sound salmon—Purse seine—Open periods. (23-227)

WSR 23-23-151
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-260—Filed November 20, 2023, 5:01 p.m., effective November 27, 2023]

Effective Date of Rule: November 27, 2023.

Purpose: The purpose of this emergency rule is to close commercial harvest of green sea urchin in District 2.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000Y; and amending WAC 220-340-750.

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

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

Reasons for this Finding: This emergency rule closes harvest of green sea urchins in Sea Urchin District 2 on November 27, 2023. The Washington department of fish and wildlife projects the quota for green sea urchin in District 2 will be taken by the end of the day November 26, 2023. This action is necessary to prevent overharvest of green sea urchin in District 2.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: November 20, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000Z Commercial sea urchin fisheries. Effective November 27, 2023, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5

inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

(2) The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 3, District 4.

(3) The maximum cumulative landings for green sea urchins for each weekly fishery opening period is 1,500 pounds per valid designated sea urchin harvest license.

REPEALER

The following section of the Washington Administrative Code is repealed effective November 27, 2023:

WAC 220-340-75000Y Commercial sea urchin fisheries.
(23-246)

WSR 23-23-167
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-261—Filed November 21, 2023, 2:42 p.m., effective November 24, 2023]

Effective Date of Rule: November 24, 2023.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons.

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

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

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

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

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

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

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

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

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

Date Adopted: November 21, 2023.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 p.m. November 24 through 11:59 p.m. November 29, 2023, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

Table with 3 columns: Razor Clam Area, Date, Time. Row 1: Area 1, November 24 through 28, From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	November 24 through 28	From 12:01 p.m. to 11:59 p.m.
Area 4	November 24, 26, and 28	From 12:01 p.m. to 11:59 p.m.
Area 5	November 25, 27, and 29	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 30, 2023:

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