

WSR 24-23-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-258—Filed November 7, 2024, 8:52 a.m., effective November 7, 2024, 8:52 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: On July 10, 2024, the Washington department of fish and wildlife (department) adopted a series of emergency rules under WSR 24-15-031 to increase the total number of special hunt permits allowed under WAC 220-415-030, 220-415-060, 220-415-070, 220-415-120, and 220-415-130 by 738 for the 2024-25 hunting season in order to align with the number of special hunt permits that were drawn in error through the department's electronic licensing system. This previous emergency rule filing also sought to reduce the mountain goat raffle permit authorized under WAC 220-412-070 to zero for the 2024-25 hunting season to help mitigate this issue. The emergency rules adopted under WSR 24-15-031 expire on November 7, 2024. The department is adopting and refiling the same set of emergency rules to continue to cover special hunt permits through the 2024-25 hunting season.

Citation of Rules Affected by this Order: Amending WAC 220-412-070, 220-415-030, 220-415-060, 220-415-070, 220-415-120, and 220-415-130.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 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 department adopted these emergency rules based on an error earlier this year with the department's drawing system that incorrectly awarded 738 additional special hunt permits that were authorized under WAC 220-415-030, 220-415-060, 220-415-070, 220-415-120, and 220-415-130 for the 2024-25 hunting season. To mitigate this error, the department had to add the incorrectly awarded 738 permits among these foregoing regulations. The department also needed to remove the 2024-25 hunting season mountain goat raffle permit, authorized in WAC 220-412-070, to accommodate permit level changes in WAC 220-415-130 Mountain goat seasons, permit quotas, and areas. When the first set of emergency rules were adopted and filed on July 10, there was insufficient time to engage in permanent rule making. The issuance of these additional permits was not anticipated to have a population level impact on current deer, elk, bighorn sheep, mountain goat, and moose populations. By adopting and refiling this emergency rule, the department seeks to accommodate a large number of hunters who had drawn in error for these limited hunting opportunities that had been planned since June 12, 2024, when the results of the draw were publicly announced. These special hunt permits remain active through the 2024-25 hunting season. The department began permanent rule making on this topic under WSR 24-21-094, filed on October 17, 2024.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 6, Repealed 0.

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

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

Date Adopted: November 7, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-412-07000B Big game and wild turkey auction, raffle, and special incentive permits. (1) Notwithstanding the provisions of WAC 220-412-070, effective immediately, until further notice, shall be modified to include the additional information set forth below while other provisions of WAC 220-412-070 not addressed herein remain in effect unless otherwise amended by emergency rule:

(17)(e) MOUNTAIN GOAT RAFFLE PERMIT
Number of permit hunters selected: 0

[NEW SECTION]

WAC 220-415-03000B 2024 Deer special permits. (1) The table in WAC 220-415-030, effective immediately, until further notice, shall be modified to include the additional information set forth below while other provisions of WAC 220-415-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

ANTLERLESS DEER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Whitcomb	Deer Area 3071	AR	Oct. 17-29	10	11
Whitcomb	Deer Area 3071	MZ	Nov. 29 - Dec. 5	10	11
Paterson	Deer Area 3072	AR	Oct. 17-29	10	11
Washtucna	GMUs 139, 142, 284, 381	MZ	Nov. 25 - Dec. 8	200	201
Prescott	GMU 149	MZ	Sept. 28 - Oct. 6	10	11
Blue Creek	GMU 154	MZ	Sept. 28 - Oct. 6	10	11
Marengo	GMU 163	MF	Nov. 1-12	5	6
Marengo	GMU 163	MZ	Sept. 28 - Oct. 6	5	6
Beezley	GMU 272	AR	Nov. 20- Dec. 8	40	43
Wahluke	GMU 278	AR	Nov. 20- Dec. 8	40	48
Mossyrock	GMU 505	MF	Oct. 12-31	30	32
Winston	GMU 520	MF	Oct. 12-31	20	21

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Coweeman	GMU 550	MZ	Sept. 28 - Oct. 6	10	14
Olympic	GMU 621	MF	Oct. 12-31	15	16
Kitsap	GMU 627	MF	Oct. 12-31	25	26
Mason	GMU 633	MF	Oct. 12-31	20	21
Wynoochee	GMU 648	MF	Oct. 12-31	30	33
Satsop	GMU 651	MF	Oct. 12-31	15	18
Satsop	GMU 651	MZ	Nov. 27 - Dec. 15	30	32
Mashel	GMU 654	AR	Oct. 12-31	10	11
North River	GMU 658	MF	Oct. 12-31	10	11
North River	GMU 658	MZ	Sept. 28 - Oct. 6	8	13
Minot Peak	GMU 660	MF	Oct. 12-31	20	21
Minot Peak	GMU 660	MZ	Sept. 28 - Oct. 6	5	8
Capitol Peak	GMU 663	MF	Oct. 12-31	5	7
Capitol Peak	GMU 663	MZ	Sept. 28 - Oct. 6	5	7
Skookumchuck	GMU 667	MF	Oct. 12-31	20	23
Williams Creek	GMU 673	MF	Oct. 12-31	5	8

BUCK DEER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Dayton	GMU 162	MZ	Sept. 28 - Oct. 6	15	16
Marengo	GMU 163	MZ	Sept. 28 - Oct. 6	10	15
Tucannon	GMU 166	MZ	Sept. 28 - Oct. 6	5	6
Mountain View	GMU 172	MZ	Sept. 28 - Oct. 6	15	18
East Okanogan	GMU 204	MF	Nov. 1-20	20	21
Sinlahekin	GMU 215	MF	Nov. 1-20	20	21
Gardner	GMU 231	MF	Nov. 1-20	10	11
Chiliwist	GMU 239	MF	Nov. 1-20	10	11
Alta	GMU 242	MF	Nov. 1-20	10	14
St. Andrews	GMU 254	MF	Nov. 1-20	4	6
Moses Coulee	GMU 269	MZ	Nov. 25 - Dec. 3	3	4
Ritzville	GMU 284	MF	Nov. 1-20	11	15
Whitcomb	Deer Area 3071	AR	Sept. 29 - Oct. 11	10	12
Whitcomb	Deer Area 3071	MZ	Nov. 18-26	5	6
West Klickitat	GMU 578	MZ	Dec. 1-8	20	23
Skokomish	GMU 636	AR	Nov. 1-13	5	6
North River	GMU 658	MF	Nov. 1-13	4	5

DEER 65+

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Roosevelt Mule Deer	GMU 133	Modern	Oct. 12-22	15	16
Harrington	GMU 136	Modern	Oct. 12-22	10	11
Washtucna	GMUs 139,142,284,381	Modern	Oct. 12-22	20	21
Blue Mtns. Foothills	GMUs 145, 149, 154, 163, Deer Area 1010, 178, 181	Modern	Oct. 12-22	15	21
Sinlahekin	GMU 215	Modern	Oct. 12-22	5	7
Chewuch	GMU 218	Modern	Oct. 12-22	5	6

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Pearygin	GMU 224	Modern	Oct. 12-22	5	6
Entiat	GMU 247	Modern	Oct. 12-22	3	5
Rattlesnake Hills	GMU 372	Modern	Oct. 12-22	10	12
Horse Heaven Hills	GMU 373	Modern	Oct. 12-22	10	11
Toutle	GMU 556	Modern	Oct. 12-31	5	6
Mason	GMU 633	Modern	Oct. 12-31	20	21
Wynoochee	GMU 648	Modern	Oct. 12-31	20	21
Satsop	GMU 651	Modern	Oct. 12-31	10	11
North River	GMU 658	Modern	Oct. 12-31	5	6
Capitol Peak	GMU 663	Modern	Oct. 12-31	5	9
Palisades	GMUs 266, 269	Modern	Oct. 12-22	5	7

DEER DISABLED HUNTERS

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Palisades	GMUs 266, 269	Modern	Oct. 12-22	5	7
Bridgeport	GMUs 248, 260	Modern	Oct. 12-22	5	7
Washtucna	GMUs 139, 142, 284, 381	Modern	Oct. 12-22	20	21
Capitol Peak	GMU 663	Modern	Oct. 12-31	5	7
Washougal	GMU 568	Modern	Oct. 12-31	2	4
Kahlotus	GMU 381	Modern	Nov. 1-14	10	13
Beezley	GMU 272	Modern	Oct. 12-22	10	13
Mission	GMU 251	Modern	Oct. 12-22	2	3
Entiat	GMU 247	Modern	Oct. 12-22	2	3
Entiat	GMU 247	Muzzleloader	Sept. 28 - Oct. 6	3	4
Alta	GMU 242	Modern	Oct. 12-22	5	6
Chiliwist	GMU 239	Modern	Oct. 12-22	5	6
Pearygin	GMU 224	Modern	Oct. 12-22	5	6

DEER MASTER HUNTER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Region 6	Designated Areas in Region 6	Any	July 1, 2024 - March 31, 2025	10	15
Region 3	Designated Areas in Region 3	Any	Aug. 1, 2024 - March 31, 2025	40	43

DEER YOUTH

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Skookumchuck	GMU 667	Modern	Oct. 5-31	20	25
Capitol Peak	GMU 663	Modern	Oct. 7-31	5	6
Minot Peak	GMU 660	Modern	Oct. 7-31	5	7
Minot Peak	GMU 660	Modern	Nov. 1-13	4	7
North River	GMU 658	Modern	Oct. 5-31	5	9
Mashel	GMU 654	Modern	Oct. 5-31	15	17
Satsop	GMU 651	Modern	Oct. 7-31	20	25
Wynoochee	GMU 648	Modern	Oct. 7-31	20	21
Mason	GMU 633	Modern	Nov. 1-17	25	26

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Pysht	GMU 603	Modern	Nov. 1-13	5	6
West Klickitat	GMU 578	Modern	Oct. 12-31	5	8
West Klickitat	GMU 578	Modern	Oct. 12-31	5	7
Wind River	GMU 574	Modern	Oct. 12-31	5	6
Siouxon	GMU 572	Modern	Oct. 12-31	5	6
Toutle	GMU 556	Modern	Oct. 12-31	15	22
Coweeman	GMU 550	Modern	Oct. 12-31	10	11
Packwood	GMU 516	Modern	Oct. 12-31	5	6
Grayback	GMU 388	Modern	Oct. 12-22	5	6
Horse Heaven Hills	GMU 373	Modern	Oct. 12-22	10	11
Desert	GMU 290	Modern	Dec. 7-29	12	20
Beezley	GMU 272	Modern	Oct. 12-22	40	45
Mission	GMU 251	Modern	Oct. 12-22	3	4
Mission	GMU 251	Muzzleloader	Sept. 28 - Oct. 6	2	4
Swakane	GMU 250	Modern	Oct. 12-22	2	3
Entiat	GMU 247	Modern	Oct. 12-22	2	4
Chiliwist	GMU 239	Modern	Oct. 12-22	5	6
Chewuch	GMU 218	Modern	Oct. 12-22	5	6
Sinlahekin	GMU 215	Modern	Oct. 12-22	5	6
Couse	GMU 181	Modern	Oct. 12-22	10	12
Dayton	GMU 162	Modern	Oct. 12-22	5	6
Prescott	GMU 149	Modern	Oct. 12-22	20	24
Washtucna	GMU 139, 142, 284, 381	Modern	Oct. 12-22	100	102
Paterson	Deer Area 3072	Muzzleloader	Nov. 1-13	5	6

SECOND DEER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Benge	Deer Area 2010	Any	Dec. 17-24	5	6
Central Okanogan	Deer Area 2014	Any	Sept. 3 - Oct. 6	5	7
Conconully	Deer Area 2016	Any	Sept. 3 - Oct. 6	5	7
Mt. Spokane	GMU 124	Modern	Oct. 12-25 and Nov. 9-19	5	7
Mica Peak	GMU 127	Archery	Sept. 1-27 and Nov. 25 - Dec. 15	5	6
Roosevelt White-tailed Deer	GMU 133	Archery	Sept. 1-27	5	6
Harrington	GMU 136	Modern	Oct. 12-22	90	102
Harrington	GMU 136	Archery	Sept. 1-27	30	34
Harrington	GMU 136	Muzzleloader	Sept. 28 - Oct. 6	10	15
Steptoe	GMU 139	Archery	Sept. 1-27	5	7
Steptoe	GMU 139	Muzzleloader	Sept. 28 - Oct. 6 and Nov. 25 - Dec. 8	5	6
Washtucna	GMU 139, 142, 284, 381	Modern	Oct. 12-22	350	362
Almota	GMU 142	Modern	Oct. 12-22	5	6
Almota	GMU 142	Archery	Sept. 1-27	5	7

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Sinlahekin	GMU 215	Modern	Oct. 12-22	5	7
Pearrygin	GMU 224	Modern	Oct. 12-22	5	7
Gardner	GMU 231	Modern	Oct. 12-22	5	6
Alta	GMU 242	Modern	Oct. 12-22	5	6
Foster Creek	GMU 260	Modern	Oct. 12-22	8	9
Foster Creek	GMU 260	Muzzleloader	Sept. 30 - Oct. 8	5	6
Badger	GMU 266	Modern	Oct. 12-22	8	12
Moses Coulee	GMU 269	Muzzleloader	Sept. 30 - Oct. 8	5	8
Desert	GMU 290	Modern	Dec. 7-22	25	33
Kahlotus	GMU 381	Modern	Dec. 9-17	10	18
Cypress	GMU 417	Modern	Oct. 12-31 and Nov. 14-17	30	31
Whidbey	GMU 420	Any	Aug 1. - Dec. 31	275	282
Camano	GMU 421	Archery	Sept. 1-27 and Nov. 27 - Dec. 31	25	28
Anderson	GMU 655	Archery	Sept. 1-27 and Nov. 27 - Dec. 31	10	12
Deschutes	GMU 666	Modern	Oct. 12-31 and Nov. 14-17	40	42

QUALITY DEER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Huckleberry White-tailed Buck	GMU 121	Modern	Nov. 20-24	5	6
Mt. Spokane	GMU 124	Modern	Nov. 1-24	5	6
Harrington	GMU 136	Modern	Nov. 1-24	5	7
Steptoe	GMU 139	Modern	Nov. 1-24	5	8
Pearrygin	GMU 224	Modern	Nov. 1-20	15	19
Pogue	GMU 233	Modern	Nov. 1-20	15	16
Alta	GMU 242	Modern	Nov. 1-20	15	17
Manson	GMU 243	Modern	Nov. 1-20	7	8
Entiat	GMU 247	Modern	Nov. 1-20	15	16
Entiat	GMU 247	Archery	Nov. 21-30	30	32
Mission	GMU 251	Modern	Nov. 1-20	7	9
Mission	GMU 251	Muzzleloader	Nov. 25-30	9	10
Desert	GMU 290	Modern	Nov. 2-10	5	7
Desert	GMU 290	Archery	Sept. 1-29	10	13
Desert	GMU 290	Archery	Nov. 16 - Dec. 1	17	21
Desert	GMU 290	Muzzleloader	Oct. 5-13	2	3
Cowiche	GMU 368	Modern	Nov. 4-17	10	12
Alkali	GMU 371	Modern	Oct. 26 - Nov. 10	10	16
Grayback	GMU 388	Modern	Nov. 4-24	20	22
Sauk	GMU 437	Modern	Nov. 1-12	25	29
Stillaguamish	GMU 448	Modern	Nov. 1-17	12	14
Coweeman	GMU 550	Modern	Nov. 1-13	4	5
Toutle	GMU 556	Modern	Nov. 1-13	1	2
Wind River	GMU 574	Modern	Nov. 14-21	20	21
West Klickitat	GMU 578	Modern	Nov. 14-21	15	18

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Satsop	GMU 651	Modern	Nov. 1-13	10	13
Capitol Peak	GMU 663	Modern	Nov. 1-13	8	9
Skookumchuck	GMU 667	Modern	Nov. 1-13	10	12

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 220-415-06000B 2024 Elk special permits. (1) The table in WAC 220-415-060, effective immediately, until further notice, shall be modified to include the additional information set forth below while other provisions of WAC 220-415-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

ANTLERLESS ELK

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Mayview-Peola	GMUs 145, 178	EM	Oct. 5-11	5	6
Mountain View	Elk Area 1013	EF	Oct. 26 - Nov. 3	5	6
Cowiche	Elk Area 3681	EA	Nov. 27 - Dec. 8	100	128
49 Degrees North	GMU 117	EF	Oct. 26 - Nov. 3 and Dec. 16-31	10	14
49 Degrees North	GMU 117	EM	Oct. 5-11 and Dec. 16-31	20	22
Huckleberry	GMU 121	EF	Oct. 26 - Nov. 3 and Dec. 16-31	10	11
Marengo	GMU 163	EF	Oct. 26 - Nov. 3	5	6
Colockum	GMUs 328, 329	EF	Oct. 30 - Nov. 3	50	52
Colockum	GMUs 328, 329	EA	Sept. 7-19	75	77
Colockum	GMUs 328, 329	EM	Oct. 5-11	35	43
West Bar	GMU 330	EF	Oct. 30 - Nov. 3	5	7
Manastash	GMU 340	EF	Oct. 30 - Nov. 3	130	135
Manastash	GMU 340	EM	Oct. 5-11	100	106
Umtanum	GMU 342	EM	Oct. 5-11	85	98
Umtanum	GMU 342, 346	EF	Oct. 30 - Nov. 3	125	127
Little Naches	GMU 346	EF	Oct. 30 - Nov. 3	125	139
Nile	GMU 352	EF	Oct. 30 - Nov. 3	10	13
Nile	GMU 352	EM	Oct. 5-11	10	11
Nile Early	GMU 352	EA	Sept. 7-19	30	32
Nile Late	GMU 352	EA	Nov. 27 - Dec. 8	30	37
Bumping	GMU 356	EF	Oct. 30 - Nov. 3	15	18
Bumping	GMU 356	EA	Sept. 7-19	50	60

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Bumping	GMU 356	EM	Oct. 5-11	10	13
Bethel	GMU 360	EF	Oct. 30 - Nov. 3	10	22
Bethel	GMU 360	EM	Oct. 5-11	10	14
Rimrock	GMU 364	EF	Oct. 30 - Nov. 3	145	155
Rimrock	GMU 364	EA	Sept. 7-19	100	121
Cowiche	GMU 368	EF	Oct. 30 - Nov. 3	80	98
Cowiche	GMU 368	EM	Oct. 5-11	60	69
Alkali	GMU 371	EM	Sept. 22 - Oct. 11	45	55
Alkali A	GMU 371	EF	Oct.12-29	45	48
Alkali B	GMU 371	EF	Oct. 30 - Nov. 22	45	57
Mossyrock	GMU 505	WF	Nov. 2-13	20	21
Ryderwood	GMU 530	WA	Nov. 27 - Dec. 15	50	52
Washougal	GMU 568	WF	Nov. 2-13	5	6
Washougal	GMU 568	WM	Nov. 27 - Dec. 15	5	6
Wind River	GMU 574	WF	Nov. 2-13	5	6
North River	GMU 658	WM	Nov. 27 - Dec. 15	25	31
Williams Creek	GMU 673	WF	Nov. 2-13	25	32
Long Beach	GMU 684	WF	Nov. 2-13	4	6
Puyallup	Elk Area 6014	WF	Jan. 1 - 20, 2025	10	11
Mashel	Elk Area 6054	WM	Jan. 1 - 15, 2025	20	21
Forks	Elk Area 6612	WA, WF, WM	Jan. 1 - 31, 2025	20	27

BULL ELK

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Peshastin	Elk Area 2033	EF	Feb. 8-17, 2025	4	5
Mission	GMU 251	EF	Oct. 21 - Nov. 3	2	3
Observatory	GMUs 334, 340, 342	EF	Oct. 21 - Nov. 3	16	17
Bethel	GMU 360	EF	Oct. 21 - Nov. 3	9	11
Rimrock	GMU 364	EF	Oct. 21 - Nov. 3	29	30
Cowiche	GMU 368	EF	Oct. 21 - Nov. 3	5	6
Upper Smith Creek	Elk Area 5064	WA	Oct. 1-7	2	3
Norway Pass	Elk Area 5066	WM	Oct. 9-15	3	4
Olympic	GMU 621, EXCEPT Elk Area 6071	WA	Sept. 1-19 and Dec. 1-15	4	6
Olympic	GMU 621, EXCEPT Elk Area 6071	WM	Sept. 28 - Oct. 11	3	4
Skokomish	GMU 636	WF	Nov. 1-17	6	8
Skokomish	GMU 636	WA	Sept. 1-19 and Dec. 1-15	5	6
White River	GMU 653	WM	Sept. 28 - Oct. 11	9	11

QUALITY ELK

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Wenaha West	Elk Area 1008	EA	Sept. 2-19	3	4
Tucannon	GMU 166	EF	Oct. 21 - Nov. 3	2	3
Lick Creek	GMU 175	EF	Oct. 21 - Nov. 3	1	2
Lick Creek	GMU 175	EM	Sept. 30 - Oct. 11	1	2
Colockum	GMUs 328, 329, 334	EM	Sept. 28 - Oct. 4	10	11
Alkali	GMUs 334, 371	EF	Oct. 12-29	36	37
Peaches Ridge	GMUs 336, 346	EF	Sept. 23-27	2	3
Goose Prairie	GMUs 352, 356	EF	Sept. 23-27	2	3
Goose Prairie	GMUs 352, 356	EA	Sept. 7-19	4	5
Bethel	GMU 360	EM	Sept. 28 - Oct. 4	2	3
Rimrock	GMU 364	EF	Sept. 23-27	2	3
Rimrock	GMU 364	EA	Sept. 7-19	14	15
Cowiche	GMU 368	EA	Sept. 7-19	3	4
Toutle	GMU 556	WF	Sept. 23-27 and Nov. 2-13	2	3
White River	GMU 653	WF	Sept. 21-25	2	3
White River	GMU 653	WA	Sept. 7-19 and Nov. 27 - Dec. 15	20	23
Mudflow	Elk Area 5099	WF	Nov. 2-13	7	9
Mudflow	Elk Area 5099	WA	Sept. 7-13 and Nov. 16-19	7	9
Mudflow	Elk Area 5099	W M	Oct. 5-15	7	11
Peninsula	GMUs 602, 603, 607, 612, 615	WA	Sept. 1-19	2	3

65 AND OLDER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Yakima South	GMUs 364, 368	EF	Oct. 30 - Nov. 10	5	7
Yakima Central	GMUs 352, 356, 360	EF	Oct. 30 - Nov. 10	5	6
Yakima Late	GMUs 336, 342, 368	EA	Nov. 27 - Dec. 8	10	12
Alkali	GMU 371	EF	Oct. 12-29	10	11
Ryderwood	GMU 530	WF	Nov. 2-13	5	6
Willapa Hills	GMU 506	WF	Nov. 2-13	5	6

ELK DISABLED HUNTER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Yakima South	GMUs 364, 368	EF, EM, EA	Oct. 30 - Nov. 9	5	8

MASTER HUNTER

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Region 1	Region 1	EF, EA, EM	Aug. 1, 2024 - Mar. 31, 2025	20	21

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Region 6 Willapa Hills-Hoof Disease	GMUs 658, 660, 663, 672, 673, 681	Any elk tag	Dec. 1, 2024 - Feb. 28, 2025	15	16
Region 5 Northwest-Hoof Disease	GMUs 501, 503, 504, 505, 506, 520, 524, (except CLOSED in Elk Area 5066), 530, 550	Any elk tag	Dec. 1, 2024 - Feb. 28, 2025	15	19
Region 6	Designated Areas in Region 6	WF, WA, WM	July 1, 2024 - Mar. 31, 2025	20	23
Region 5	Designated areas in Region 5	Any elk tag	Aug. 1, 2024 - Mar. 31, 2025	30	31
Region 3	Designated Areas in Region 3	Any elk tag	Aug. 1, 2024 - Mar. 31, 2025	20	21
Region 2	Designated Areas in Region 2	Any elk tag	Aug. 1, 2024 - Mar. 31, 2025	10	11
Region 4 South	Designated Areas in King and Snohomish counties	Any elk tag	July 1, 2024 - Mar. 31, 2025	10	12

ELK YOUTH

Hunt Name	Boundary	Tag	Dates	Original Permits	Adjusted Permits
Malaga	Elk Area 2032	EF	Nov. 1-12	10	11
Forks	Elk Area 6612	WF, WM, WA	Dec. 16, 2024 - Jan 31, 2025	10	12
49 Degrees North	GMU 117	EF	Oct. 26 - Nov. 3 and Dec. 16-31	5	7
Alkali	GMU 371	EF	Dec. 16, 2024 - Jan. 21, 2025	20	23
Alkali	GMU 371	EM	Nov. 23 - Dec.15	10	11
West Klickitat	GMU 578	WF	Nov. 2-13	10	12
Williams Creek	GMU 673	WF	Nov. 2-13	10	11
Yakima North	GMUs 336, 340, 342, 346	EF	Oct. 30 - Nov. 10	35	36
Yakima Central	GMUs 352, 356, 360	EF	Oct. 30 - Nov. 10	5	7
Yakima South	GMUs 364, 368	EF	Oct. 30 - Nov. 10	25	28
Yakima South	GMUs 364, 368	EM	Sept. 28 - Oct. 11	15	18
Region 6	Designated Areas in Region 6	WF	Aug. 1, 2024 - Mar. 31, 2025	7	9

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 220-415-07000B 2024 Moose seasons, permit quotas, and areas.

(1) The table in WAC 220-415-070, effective immediately, until further notice, shall be modified to include the additional information set forth below while other provisions of WAC 220-415-070 not addressed herein remain in effect unless otherwise amended by emergency rule:

Category	Hunt Name	Boundary	Hunt Dates	Original Permits	Adjusted Permits
Antlerless Moose	Cheney B	GMU 130, 139	Oct 1 - Nov 30	2	4
Antlerless Moose	Douglas 108 B	GMU 108	Oct 1 - Nov 30	2	3
Any Antlered Bull Moose	Hangman	GMU 127, 130, 139	Oct. 1 - Nov. 30	4	7
Any Antlered Bull Moose	Selkirk 113	GMU 113	Oct. 1 - Nov. 30	15	17
Any Antlered Bull Moose	Huckleberry A - Early	GMU 121	Oct. 1-31	10	13
Any Antlered Bull Moose	Huckleberry A - Late	GMU 121	Nov. 1-30	10	12
Any Antlered Bull Moose	Spokane West A	GMU 124 (W of Hwy 395)	Oct. 1 - Nov. 30	2	3
Any Antlered Bull Moose	Mt Spokane South A	Moose Area 1 (within 124)	Oct. 1 - Nov. 30	8	9

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 220-415-12000B 2024 Bighorn sheep seasons, permit quotas, and areas. (1) The table in WAC 220-415-120, effective immediately, until further notice, shall be modified to include the additional information set forth below while other provisions of WAC 220-415-120 not addressed herein remain in effect unless otherwise amended by emergency rule:

Category	Hunt Name	Boundary	Dates	Original Permits	Adjusted Permits
Sheep Any Ram	Chelan Butte A	Sheep Unit 18	Sept. 15 - Oct. 10	2	3
Sheep Ewe	Swakane	Sheep Unit 14	Oct. 11-31	2	3

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 220-415-13000B 2024 Mountain goat seasons, permit quotas, and areas. (1) Notwithstanding the provisions of WAC 220-415-130, effective immediately, until further notice, shall be modified as set forth below while other provisions of WAC 220-415-130 not addressed herein remain in effect unless otherwise amended by emergency rule:

Hunt Name	Hunt Dates	Original Permits	Adjusted Permits
Lincoln Peak (4-4)	Sept. 1 - Nov. 30	2	3
Goat Rocks West (5-4)	Sept. 1 - Nov. 30	1	2

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 24-23-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-257—Filed November 7, 2024, 3:02 p.m., effective November 8, 2024]

Effective Date of Rule: November 8, 2024.

Purpose: This emergency rule will open recreational salmon and gamefish seasons in Snoqualmie River, open gamefish seasons in Tokul Creek, and maintain previously announced salmon seasons in Snohomish, Skykomish, and Wallace rivers.

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

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

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

Reasons for this Finding: This emergency rule is necessary to open recreational game fish and salmon seasons in Snoqualmie River, and game fish seasons in Tokul Creek, while maintaining previously announced salmon seasons for Snohomish, Skykomish, and Wallace rivers.

Snohomish basin coho runsize in-season update (ISU) indicates a low risk of exceeding management objectives for coho. Chinook salmon are nearing the end of their spawning run, and the risk of incidental sport fishery encounters of natural Chinook salmon is reduced in Snohomish, Snoqualmie, Snoqualmie [Skykomish], and Wallace rivers, allowing for salmon season openings targeting coho.

The Washington department of fish and wildlife recently announced changes to the Tokul Creek hatchery program. Tokul Creek hatchery will be ending its segregated hatchery program (using only early winter hatchery broodstock) at the end of 2024 and switch to an integrated broodstock program (using wild broodstock) to support steelhead conservation and sustainable fishing opportunities in the future. This additional fishing opportunity to target hatchery steelhead will help minimize hatchery fish from straying to natural spawning areas and assist in the transition to an integrated broodstock program.

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, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000C Freshwater exceptions to statewide rules—Puget Sound. Effective November 8 through January 14, 2025, provisions of WAC 220-312-040 regarding salmon seasons for Snohomish, Snoqualmie, Skykomish and Wallace rivers shall be modified as described herein. Additionally, game fish seasons for Tokul Creek shall be modified as described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

(1) **Skykomish River (Snohomish County):** From the mouth to confluence of North and South Forks: Effective November 8 through December 31, 2024:

Salmon: Daily limit 2. Release Chinook and chum.

(2) **Snohomish River (Snohomish County):** From mouth (Burlington-Northern Railroad bridges) (including all channels, sloughs, and interconnected waterways, but excluding all tributaries) to confluence of the Skykomish and Snoqualmie rivers (all channels): Effective November 8 through December 31, 2024:

Salmon: Daily limit 2. Release Chinook and chum.

(3) **Snoqualmie River (Snohomish County):** From mouth to Snoqualmie Falls: Effective November 8 through December 31, 2024:

Salmon: Daily limit 2. Release Chinook and chum.

(4) **Tokul Creek (King County):** From mouth to the posted boundary marker downstream of diversion dam: Effective November 8 through January 14, 2025:

(a) All species: Anti-snagging rules in effect. Fishing closed from 5:00 p.m. to 7:00 a.m., daily.

(b) Trout: Statewide minimum size and daily limit, except cut-throat trout and wild rainbow trout minimum size 14".

(c) Other game fish: Statewide minimum size and daily limit.

(5) **Wallace River (Snohomish County):** From the mouth to 200 feet upstream of water intake of salmon hatchery: Effective November 8 through December 31, 2024:

Salmon: Daily limit 2. Release Chinook and chum.

REPEALER

The following section of Washington Administrative Code is repealed, effective November 8, 2024:

WAC 220-312-04000A Freshwater exceptions to statewide rules—Puget Sound. (24-246)

WSR 24-23-008
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 8, 2024, 8:07 a.m., effective November 8, 2024, 8:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In alignment with ESSB 5293, passed by the Washington state legislature in 2023, the emergency rules exempt school districts and charter schools for the 2024-2025 and 2025-2026 budget periods from accepting binding conditions when the proceeds of an interfund loan have been used to balance deficit fund balances. The rules allow this exemption in order to address budget destabilization in the aftermath of the COVID-19 pandemic, which is consistent with the purpose described under ESSB 5293 (2023) and RCW 28A.505.130.

This is a renewal of emergency rule filing as the office of superintendent of public instruction (OSPI) continues to conduct permanent rule making concerning district budgeting (binding conditions).

Citation of Rules Affected by this Order: Amending WAC 392-123-060.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

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 emergency rules are necessary to allow districts and charter schools to exercise the statutory exemption under ESSB 5293 (2023) and RCW 28A.505.130 from accepting binding conditions when utilizing interfund loan proceeds to address budget destabilization for the 2024-2025 and 2025-2026 budget periods.

OSPI will also conduct permanent rule making concerning the exemption from binding conditions.

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

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

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

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

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

Date Adopted: November 8, 2024.

Chris P.S. Reykdal
State Superintendent of Public Instruction

OTS-5283.1

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-123-060 Petition to budget receivables collectible in future fiscal periods. When a school district or charter school is unable to prepare a budget or a budget extension in which the estimated revenues for the budgeted fiscal period plus the estimated fund balance or actual fund balance in case of a budget extension, at the beginning of the budgeted fiscal period less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal period, the school district board of directors or charter school board may deliver a petition in writing at least (~~twenty~~) 20 days before the budget or budget extension is scheduled for adoption to the superintendent of public instruction requesting permission to include receivables collectible in future periods beyond the fiscal period being budgeted in order to balance the budget or budget extension for the fiscal period being budgeted. Said petition shall include a resolution of the school board requesting permission to budget receivables collectible in future fiscal periods and other such information as the superintendent of public instruction shall deem as necessary.

If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district or charter school, designed to improve the district's or charter school's financial condition.

For the 2024-2025 and 2025-2026 budget periods, accepting binding conditions due to a negative fund balance position is not required for school districts or charter schools that have an interfund loan for more than the amount of the negative position in the receiving fund. This timebound exception is provided in RCW 28A.505.130 so long as the transaction date on the loan occurs on or before June 30, 2024.

WSR 24-23-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-259—Filed November 8, 2024, 3:28 p.m., effective November 13, 2024]

Effective Date of Rule: November 13, 2024.

Purpose: This emergency rule opens recreational razor clam seasons.

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

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

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

Reasons for this Finding: Survey results show that adequate clams are available in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. 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 8, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000W 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 November 13 through November 19, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and during times listed below:

Razor Clam Area	Date	Time
Area 1	November 13 through November 19	From 12:01 p.m. to 11:59 p.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	November 13 through November 19	From 12:01 p.m. to 11:59 p.m.
Area 4	November 15, 16 and 19	From 12:01 p.m. to 11:59 p.m.
Area 5	November 13, 14, 17 and 18	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective November 20, 2024:

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

WSR 24-23-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-261—Filed November 8, 2024, 3:31 p.m., effective January 1, 2025]

Effective Date of Rule: January 1, 2025.

Purpose: This emergency rule sets recreational white sturgeon winter retention season schedule from Bonneville Dam to John Day Dam.

Citation of Rules Affected by this Order: Amending WAC 220-312-060.

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

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

Reasons for this Finding: This rule is needed to set the open days-per-week for recreational sturgeon harvest in Bonneville and The Dalles reservoirs. Without altering open periods within permanent rule, these populations of sturgeon are at risk of exceeding retention guidelines within January, as indicated by the last decade of data. These actions are expected to extend the sport fishing seasons and to help ensure the overall sport guidelines of 675 and 275 fish in the Bonneville and The Dalles pools, respectively, are not exceeded. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearing on the November 8, 2024.

The duration of the retention seasons will be adjusted if catch rates and efforts are much different than projected, based on pool-specific catch guidelines. The recommended days-per-week approach will allow fishery managers sufficient time to produce and monitor daily harvest estimates and recommend actions necessary to stay within the harvest guidelines.

The general public welfare is protected with the immediate and limited duration opening of recreational sturgeon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population. 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 8, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000C Freshwater exceptions to statewide rules—Columbia River. Effective January 1, through January 29, 2025, the provisions of WAC 220-312-060, WAC 220-312-030, and WAC 220-316-010 regarding white sturgeon retention seasons from Bonneville Dam to John Day Dam are as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From Bonneville Dam upstream to The Dalles Dam, including adjacent tributaries:

(a) From January 1, through January 29, 2025, it is permissible to retain white sturgeon only on the following dates:

January 1, 4, 8, 11, 15, 18, 22, 25, 29.

(b) Minimum fork length 38 inches. Maximum fork length 54 inches.

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

(2) From The Dalles Dam upstream to John Day Dam, including adjacent tributaries:

(a) From January 1, through January 29, 2025, it is permissible to retain white sturgeon only on the following dates:

January 1, 4, 8, 11, 15, 18, 22, 25, 29.

(b) Minimum fork length 43 inches. Maximum fork length 54 inches.

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

WSR 24-23-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-260—Filed November 8, 2024, 4:06 p.m., effective November 11, 2024]

Effective Date of Rule: November 11, 2024.

Purpose: This emergency rule will open a portion of Puget Sound Management and Catch Reporting Area 12C for a purse seine season on November 11, and gillnet seasons on November 12 and 14, 2024.

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 open a portion of Puget Sound Management and Catch Reporting Area 12C to purse seine and gillnets fisheries beginning the week of Monday, November 11, 2024. To date, Puget Sound commercial chum catch, escapement, and hatcheries suggest sufficient abundance to allow the opening of a portion of 12C. 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 8, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000T Puget Sound salmon—Purse seine—Open periods. Effective 7:00 a.m. November 11 until 5 p.m. November 11, 2024, the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Area 12C shall be modified as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Area(s)	Open/Closed	Time	Date(s)
That portion of area 12C north of 47°27'30"	Open	7 AM - 5 PM	11/11

NEW SECTION

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

Effective November 12 through November 14, 2024, the following provisions of WAC 220-354-160 regarding commercial Gillnet open periods for Puget Sound Salmon Management and Catch Reporting Area 12C shall be modified as described below. All other provisions of WAC 220-354-120 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)	Minimum Mesh size
That portion of area 12C north of 47°27'30"	Open	6 AM - 6 PM	11/12, 11/14	6 1/4"

WSR 24-23-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-262—Filed November 13, 2024, 8:40 a.m., effective November 14, 2024]

Effective Date of Rule: November 14, 2024.

Purpose: This emergency rule adjusts the Puget Sound purse seine test fishing schedule for week 46.

Citation of Rules Affected by this Order: Repealing WAC 220-354-12000N; 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 adjust the preseason purse seine vessel test fishing schedule for the following vessels, the F/V Harbor Gem, the F/V Lisa Marie, and the F/V Tradition in week 46 from Wednesday, November 13 to Thursday, November 14, to conduct test fisheries in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11. The schedule adjustment is necessary to avoid inclement weather predicted for Wednesday and to ensure staff safety. These test fisheries are necessary to collect genetic stock identification 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 13, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000U Puget Sound salmon—Purse seine—Open periods.

Effective November 14 through November 20, 2024, the purse seine vessels the 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 9, 10 and 11.

(1) Allowed fishing period is from November 14 through November 20, 2024.

(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 9/10 Apple Cove Test Fishery: Administered by Northwest Indian Fisheries Commission staff. All salmon species may be retained.

(4) 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
46	Thurs 11/14/2024	Thurs 11/14/2024	Thurs 11/14/2024
47	Wed 11/20/2024		

REPEALER

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

WAC 220-354-12000N Puget Sound salmon—Purse seine—Open periods. (24-243)

WSR 24-23-029
EMERGENCY RULES
CENTER FOR DEAF AND
HARD OF HEARING YOUTH

[Filed November 13, 2024, 9:33 a.m., effective November 29, 2024]

Effective Date of Rule: November 29, 2024.

Purpose: To bring the Washington School for the Deaf's (agency) student conduct code (code) into compliance with a new final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the school's community and the constitutional and procedural rights of individual students.

Citation of Rules Affected by this Order: New WAC 148-120-500, 148-120-505, 148-120-510, 148-120-515, 148-120-520, 148-120-525, 148-120-530, and 148-120-535.

Statutory Authority for Adoption: RCW 72.40.0191, 72.42.041; chapter 34.05 RCW.

Other Authority: United States Department of Education, Title IX Amendments of 1972.

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: On April 19, 2024, the United States Department of Education released its final rule under Title IX. This rule requires recipients of federal financial assistance, which operate an education program or activity, to adopt student disciplinary procedures addressing sex discrimination, including sex-based harassment. The deadline for implementing this new rule was August 1, 2024. On July 31, 2024, the agency filed a CR-103E (WSR 24-16-057) to adopt the emergency rules, effective on August 1, 2024. These emergency rules will no longer remain in effect after November 29, 2024. The agency has filed a CR-101 (WSR 24-18-073) and is actively undertaking appropriate procedures to adopt the emergency rules as permanent rules. Adopting substantially similar emergency rules, which will be effective on November 29, 2024, will give the agency time to complete the permanent rule-making process.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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, 2024.

Shauna Bilyeu
Executive Director

OTS-5669.3

SUPPLEMENTAL STUDENT CONDUCT PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF VIOLATION OF TITLE IX

NEW SECTION

WAC 148-120-500 Order of precedence. These supplemental procedures apply to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental procedures conflict with the Washington school for the deaf's standard disciplinary procedures, WAC 148-120-001 through 148-120-410, or any provisions set forth in student handbooks, and other school or agency policies and procedures, these supplemental procedures will take precedence.

NEW SECTION

WAC 148-120-505 Prohibited conduct under Title IX. (1) Pursuant to chapter 392-400 WAC and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the Washington school for the deaf may impose disciplinary sanctions up to and including expulsion against a student who has been found responsible for committing, attempting to commit, aiding, abetting, inciting, encouraging or assisting another person to commit or engage in acts of sex discrimination, which include sex-based harassment.

(2) For the purposes of this supplemental procedure, the following conduct is prohibited:

- (a) Sex discrimination;
- (b) Sex-based harassment;
- (c) Sexual violence;
- (d) Stalking; and
- (e) Retaliation.

NEW SECTION

WAC 148-120-510 Definitions. For the purposes of this supplemental procedure, the following definitions apply:

(1) "Agency" means the Center for Deaf and Hard of Hearing Youth.

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

(a) A student or employee; or

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

(3) "Complaint" means a written or oral request that can be objectively understood as a request for the agency to investigate and make a determination about alleged sex discrimination.

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

(5) "Decision maker" means the school's principal or designee.

(6) "Disciplinary sanction" means consequences imposed on a respondent following a determination that the respondent violated the agency's policy prohibiting sex discrimination or the school's conduct code.

(7) "Impermissible evidence" means privileged communications, unless the privilege has been effectively waived by the holder, and irrelevant evidence about a complainant's prior sexual behavior.

(a) Privileged communications include:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client and attorney work product privileges;

(iii) Privileges applicable to members of the clergy and priests;

(iv) Privileges applicable to medical providers, mental health therapists, and counselors;

(v) Privileges applicable to sexual assault and domestic violence advocates; or

(vi) Other legal privileges identified in RCW 5.60.060.

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

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

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

(8) "Investigation procedure" is the process the school uses to initiate, informally resolve, and/or investigate allegations that a student has violated school policies prohibiting sex discrimination or sex-based harassment.

(9) "Peer retaliation" means retaliation by a student against another student.

(10) "Pregnancy or related conditions" means:

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

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

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

(11) "Program or program activity" means all operations of the school.

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

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

(14) "Respondent" means an individual who has been alleged to have violated the school's policy prohibiting sex discrimination.

(15) "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the agency, a student, or an employee or other person authorized by the school to provide aid, benefit, or service under the school's education program or activity, for the purpose of interfering with any right or privilege secured by school policies and procedures prohibiting sex discrimination, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination. Nothing in this definition precludes the school from requiring an employee to provide aid, benefit, or service under the school's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

(16) "School" means the Washington school for the deaf.

(17) "Sex discrimination" occurs when a respondent causes a complainant more than de minimis (insignificant) harm by treating the complainant differently from other similarly situated individual(s) based on:

(a) Sex stereotypes;

(b) Sex characteristics;

(c) Pregnancy or related conditions;

(d) Sexual orientation; or

(e) Gender identity. Preventing a person from participating in an education program or activity consistent with their gender identity constitutes more than de minimis harm and is prohibited.

(18) "Sex-based harassment" for purposes of this supplemental procedure, sex-based harassment is a type of sex discrimination that occurs when a respondent engages in the following discriminatory conduct on the basis of sex:

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

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

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

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

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

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

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

(c) Sexual violence. Sexual violence includes the following conduct:

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

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

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

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

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

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

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

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

(I) The length of the relationship;

(II) The type of relationship; and

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

(d) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

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

(ii) Suffer substantial emotional distress.

(19) "Title IX coordinator" is responsible for processing Title IX complaints and conducting or overseeing formal investigations and any informal resolution processes under this procedure.

NEW SECTION

WAC 148-120-515 Rights of parties. The provisions of these supplemental procedures shall apply equally to the respondent and the complainant.

The school bears the burden of offering and presenting sufficient evidence to establish that the respondent is responsible for engaging in sex discrimination, sex-based harassment, or retaliation related to or arising from such allegations by a preponderance of the evidence.

The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

NEW SECTION

WAC 148-120-520 Determination. (1) Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the decision maker:

(a) May question parties and witnesses to adequately assess a party's or witness's creditability to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. This process involves:

(i) The decision maker will request the party or witness to attend an interview.

(ii) During the interview, the decision maker may ask questions that do not seek irrelevant or impermissible evidence;

(b) Will use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decision maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision maker is not persuaded under this standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision maker will not determine that sex discrimination occurred;

(c) Will notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal;

(d) Will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination;

(e) Will comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and

(f) Will not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

(2) If there is a determination that sex discrimination occurred, the Title IX coordinator will, as appropriate:

(a) Coordinate the provision and implementation of remedies to a complainant and other people the agency identifies as having had equal access to the agency's education program or activity limited or denied by sex discrimination;

(b) Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and

(c) Take other appropriate prompt and effective steps to ensure that sex discrimination does not recur within the agency's education program or activity.

NEW SECTION

WAC 148-120-525 Disciplinary process for sex-based harassment.

(1) Following a determination that sex-based harassment occurred, the principal may impose disciplinary sanctions, which may include time out, detention, behavior contracts, restrictions of privileges, reprimand, restitution, suspensions, or expulsion.

(2) Any discipline imposed under the section is subject to the requirements in WAC 148-120-250, and WAC 392-172A-05140 through 392-172A-05175.

(3) Following a determination that sex-based harassment occurred, the principal may provide remedies, which may include education or reflection assignments, behavior contracts, or restriction of privileges.

NEW SECTION

WAC 148-120-530 Appeals. (1) If the complainant or respondent disagrees with the decision maker's determination, the disagreeing party may appeal the determination by filing a written notice of appeal with the executive director for the center for deaf and hard of hearing youth within 21 calendar days following the date upon which the complainant received the determination.

(2) The school will implement appeal procedures equally for both parties and provide written notice to the other party when an appeal is filed.

(3) The school will ensure that the decision maker for the appeal is not the same decision maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX coordinator.

(4) The hearing will commence by the 20th calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the executive director for good cause.

(5) Both parties will be allowed a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the initial determination.

(6) Unless otherwise agreed to by the parties, the decision maker, on appeal, will render a written decision within 20 calendar days following the filing of the notice of appeal and provide the parties with a copy of the decision.

(7) The written decision will describe the result of the appeal and the rationale for the result.

NEW SECTION

WAC 148-120-535 Extension of time frames. The time frames in these supplemental procedures may be extended on a case-by-case basis for good cause and with notice to the parties that includes the reason for the delay.

(1) The Title IX coordinator, decision maker, or executive director, may send written notice to the parties stating the extension of the time frame for a major stage and the reason for the extension; or

(2) A party may submit a written request to the Title IX coordinator asking for an extension of the time frame for a major stage and the reason for requesting the extension.

WSR 24-23-038
EMERGENCY RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed November 14, 2024, 8:48 a.m., effective November 14, 2024, 8:48 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To bring the Community Colleges of Spokane's (college) student conduct code (code) into compliance with a new final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the college community and the constitutional and procedural rights of individual students.

Citation of Rules Affected by this Order: Amending chapter 132Q-10 WAC.

Statutory Authority for Adoption: RCW 28B.50.140(13), 34.05.350.

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: On April 19, 2024, the Department of Education released its final rule under Title IX. This rule requires institutions of higher education to adopt student disciplinary procedures addressing sex discrimination, including sex-based harassment. The deadline for implementing this new rule was August 1, 2024. The college filed a CR-103E emergency rule-making order, WSR 24-16-015, on July 25, 2024, adopting emergency rules, effective August 1, 2024, to comply with the Department of Education final rules. The emergency rules filed on July 25, 2024, are set to expire before permanent rules can take effect. The college has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rules as permanent rules. The college has scheduled a hearing to consider adoption of permanent rules for December 17, 2024, WSR 24-21-082. These emergency rules are being filed to ensure that the Department of Education required procedures remain in place until permanent rules are adopted and go into effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 9, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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, 2024.

John O'Rourke
Rules Coordinator

OTS-5663.1

AMENDATORY SECTION (Amending WSR 22-12-002, filed 5/19/22, effective 6/19/22)

WAC 132Q-10-600 Sex discrimination—Supplemental student conduct code and procedures—Order of precedence. This supplemental student conduct code and procedure applies to allegations of ~~((sexual harassment))~~ sex discrimination for incidents occurring on or after August 1, 2024, subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the Community Colleges of Spokane's standard disciplinary procedures, WAC 132Q-10-101 through 132Q-10-503, these supplemental procedures shall take precedence. ~~((The college may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.))~~

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-601 Sex discrimination—Prohibited conduct ((under Title IX)) and definitions. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the Community Colleges of Spokane may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "~~((sexual harassment))~~ sex discrimination."

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

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

~~(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Community Colleges of Spokane's educational programs or activities, or employment.~~

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

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

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

~~or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

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

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

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

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

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

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

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

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

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

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

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

(a) A student or employee; or

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

(2) "Pregnancy or related conditions" means:

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

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

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

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

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

(5) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and

activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) The length of the relationship;

(II) The type of relationship; and

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

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

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

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

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

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

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

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

a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

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

(9) "Student group" is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups.

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

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

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

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

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 1320-10-602 ((Title IX)) Sex discrimination jurisdiction.

~~((1))~~ This supplemental procedure applies only if the alleged misconduct meets the definition of "sex discrimination" as that term is defined in WAC 1320-10-601 and occurs:

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

~~(b) Occurred during a Community Colleges of Spokane educational program or activity; and~~

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

~~(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the Community Colleges of Spokane exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building~~

owned or controlled by a student organization that is officially recognized by the Community Colleges of Spokane.

~~(3) Proceedings under this supplemental procedure must be dismissed if one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Upon receipt of the formal complaint, the Title IX coordinator shall make an initial inquiry into whether Title IX jurisdiction extends to the complaint. If the Title IX coordinator determines there is no Title IX jurisdiction, the Title IX coordinator will issue a notice of dismissal in whole or part explaining why some or all of the Title IX claims have been dismissed. Dismissal under this supplemental procedure does not prohibit the Community Colleges of Spokane from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the Community Colleges of Spokane's student conduct code, WAC 132Q-10-101 through 132Q-10-503.~~

~~(4) After receipt of the investigation report, if the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed. Dismissal under this supplemental procedure does not prohibit the Community Colleges of Spokane from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the Community Colleges of Spokane's student conduct code, WAC 132Q-10-101 through 132Q-10-503)~~

(1) On college premises;

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

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

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-603 Sex discrimination—Dismissal and initiation of discipline. ~~((1) Upon receiving the Title IX investigation report from the Title IX coordinator or designee, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(4) When interim suspension or other restriction proceedings are conducted under WAC 1320-10-320, the complainant shall be notified that an interim suspension has been imposed on the same day that the interim suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the interim suspension order.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-604 Sex discrimination—Prehearing procedure. ((+1) Upon receiving the disciplinary notice, the chair of the student conduct administrative panel will send a hearing notice to all parties, in compliance with WAC 132Q-10-315. In no event will the hearing date be set less than ten days after the Title IX coordinator or designee provided the final investigation report to the parties.

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

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

(2) In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or

other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct administrative panel and/or committee chair.

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

(a) Notice. The college must provide a notice that includes all information required in WAC 1320-10-315, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

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

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

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

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

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

(a) Notice. In addition to all information required by WAC 1320-10-315, the prehearing notice must also inform the parties that:

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

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

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-606 Sex discrimination—Presentation of evidence.

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

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

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

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

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

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

~~(4) Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.~~

~~(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.~~

~~(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:~~

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-607 ~~Sex discrimination—Initial order.~~ (1) (~~In addition to complying~~) The student conduct administrative panel will comply with WAC 132Q-10-330 (~~, the student conduct administrative panel will be responsible for conferring and drafting an initial order that:~~

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

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

AMENDATORY SECTION (Amending WSR 22-12-002, filed 5/19/22, effective 6/19/22)

WAC 132Q-10-608 ~~Sex discrimination—Appeals.~~ (~~(1) All parties, including the student conduct officer in their capacity as a representative of the college shall have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the appropriate vice president's office within 21 days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions of law in the initial order or dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.~~

~~(2) For appeals coming from Spokane Community College, the vice president of student affairs at Spokane Falls Community College will process the appeal. For appeals coming from Spokane Falls Community College, the vice president of student services at Spokane Community College will process the appeal.~~

~~(3) Upon receiving a timely appeal, the appropriately identified vice president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the appropriate vice president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the appropriate vice president shall serve copies of the responses to the other parties.~~

~~(4) Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the appropriate vice president's office.~~

~~(5) The appropriate vice president or their delegate, based on their review of parties' submission and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal if affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and if amended set for the new disciplinary sanctions and conditions.~~

~~(6) The appropriate vice president of student affairs/services shall serve the final decision on the parties simultaneously.~~

~~(7) All administrative decisions reached through this process are and may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.)~~ (1) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the appropriate vice president's office (appeal authority) within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final. For appeals coming from Spokane Community College, the vice president of student affairs at Spokane Falls Community College will process the appeal as the appeal authority. For appeals coming from Spokane Falls Community College, the vice president of student services at Spokane Community College will process the appeal as the appeal authority.

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

(a) Procedural irregularity that would change the outcome;

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

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

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

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

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132Q-10-605 Rights of parties.

**WSR 24-23-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 24-263—Filed November 14, 2024, 3:34 p.m., effective November 18, 2024]

Effective Date of Rule: November 18, 2024.

Purpose: The purpose of this emergency rule is to close Puget Sound commercial sea cucumber harvest.

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

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 management districts to preserve quota for another harvest opener later, in December 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 14, 2024.

Amy H. Windrope
for Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective November 18, 2024:

WAC 220-340-73000T Sea cucumbers (24-186)

WSR 24-23-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-265—Filed November 14, 2024, 3:41 p.m., effective November 16, 2024]

Effective Date of Rule: November 16, 2024.

Purpose: This emergency rule is necessary to open commercial beach seine seasons in Puget Sound Salmon Management and Catch Reporting Area 12C.

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

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

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

Reasons for this Finding: This emergency rule is needed to open Puget Sound Management and Catch Reporting Area 12C to beach seines. The runsize of chum returning to Hood Canal is larger than expected pre-season. Escapement to Hoodspout hatchery is sufficient to meet broodstock needs, and there is remaining nontreaty share available to support this beach seine 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 14, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-21000Q Puget Sound salmon—Beach seine—Open periods. Effective 7 a.m. November 16 until 7 p.m. November 16, 2024, 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 AM - 7 PM	11/16

WSR 24-23-050
EMERGENCY RULES
WASHINGTON STATE
SCHOOL FOR THE BLIND

[Filed November 15, 2024, 10:22 a.m., effective November 29, 2024]

Effective Date of Rule: November 29, 2024.

Purpose: To bring the Washington state school for the blind's (agency) student conduct code (code) into compliance with a new final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the school's community and the constitutional and procedural rights of individual students.

Citation of Rules Affected by this Order: New WAC 72-120-400, 72-120-405, 72-120-410, 72-120-415, 72-120-420, 72-120-425, 72-120-430, and 72-120-435.

Statutory Authority for Adoption: RCW 72.40.022.

Other Authority: United States Department of Education, Title IX Amendments of 1972.

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: On April 19, 2023, the United States Department of Education released its final rule under Title IX. This rule requires recipients of federal financial assistance, which operate an education program or activity, to adopt student disciplinary procedures addressing sex discrimination, including sex-based harassment. The deadline for implementing this new rule was August 1, 2024. On July 18, 2024, the agency filed a CR-103E (WSR 24-15-083) to adopt the emergency rules, effective on August 1, 2024. These emergency rules will no longer remain in effect after November 29, 2024. The agency has filed a CR-101 (WSR 24-18-117) and is actively undertaking appropriate procedures to adopt the emergency rules as permanent rules. Adopting substantially similar emergency rules, which will be effective on November 29, 2024, will give the agency time to complete the permanent rule-making process.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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, 2024.

Scott McCallum

OTS-5631.2

SUPPLEMENTAL STUDENT CONDUCT PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF VIOLATION OF TITLE IXNEW SECTION

WAC 72-120-400 Order of precedence. These supplemental procedures apply to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental procedures conflict with the Washington state school for the blind's standard disciplinary procedures, WAC 72-120-001 through 72-120-315, or any provisions set forth in student handbooks, and other school or agency policies and procedures, these supplemental procedures will take precedence.

NEW SECTION

WAC 72-120-405 Prohibited conduct under Title IX. (1) Pursuant to chapter 392-400 WAC and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the Washington state school for the blind may impose disciplinary sanctions up to and including expulsion against a student who has been found responsible for committing, attempting to commit, aiding, abetting, inciting, encouraging or assisting another person to commit or engage in acts of sex discrimination, which include sex-based harassment.

(2) For the purposes of this supplemental procedure, the following conduct is prohibited:

- (a) Sex discrimination;
- (b) Sex-based harassment;
- (c) Sexual violence;
- (d) Stalking; and
- (e) Retaliation.

NEW SECTION

WAC 72-120-410 Definitions. For the purposes of this supplemental procedure, the following definitions apply:

- (1) "Agency" means the Washington state school for the blind.

(2) "Complaint" means a written or oral request that can be objectively understood as a request for the agency to investigate and make a determination about alleged sex discrimination.

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

(a) A student or employee; or

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

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

(5) "Decision maker" means the school's associate director of campus programs, superintendent, or designee.

(6) "Disciplinary sanction" means consequences imposed on a respondent following a determination that the respondent violated the agency's policy prohibiting sex discrimination or the school's conduct code.

(7) "Impermissible evidence" means privileged communications, unless the privilege has been effectively waived by the holder, and irrelevant evidence about a complainant's prior sexual behavior.

(a) Privileged communications include:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client and attorney work product privileges;

(iii) Privileges applicable to members of the clergy and priests;

(iv) Privileges applicable to medical providers, mental health therapists, and counselors;

(v) Privileges applicable to sexual assault and domestic violence advocates; or

(vi) Other legal privileges identified in RCW 5.60.060.

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

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

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

(8) "Investigation procedure" is the process the school uses to initiate, informally resolve, and/or investigate allegations that a student has violated school policies prohibiting sex discrimination or sex-based harassment.

(9) "Peer retaliation" means retaliation by a student against another student.

(10) "Pregnancy or related conditions" means:

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

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

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

(11) "Program" or "programs and activities" means all operations of the school.

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

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

(14) "Respondent" means an individual who has been alleged to have violated the school's policy prohibiting sex discrimination.

(15) "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the school, a student, or an employee or other person authorized by the school to provide aid, benefit, or service under the school's education program or activity, for the purpose of interfering with any right or privilege secured by school policies and procedures prohibiting sex discrimination, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination. Nothing in this definition precludes the school from requiring an employee to provide aid, benefit, or service under the school's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

(16) "School" means the Washington state school for the blind.

(17) "Sex discrimination" occurs when a respondent causes a complainant more than de minimis (insignificant) harm by treating the complainant differently from other similarly situated individual(s) based on:

(a) Sex stereotypes;

(b) Sex characteristics;

(c) Pregnancy or related conditions;

(d) Sexual orientation; or

(e) Gender identity.

Preventing a person from participating in an education program or activity consistent with their gender identity constitutes more than de minimis harm and is prohibited.

(18) "Sex-based harassment." For purposes of this supplemental procedure, sex-based harassment is a type of sex discrimination that occurs when a respondent engages in the following discriminatory conduct on the basis of sex:

(a) Quid pro quo harassment. An employee, agent, or other person authorized by the agency to provide an aid, benefit, or service under the agency's education program or activity explicitly or impliedly

conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

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

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

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

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

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

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

(c) Sexual violence. Sexual violence includes the following conduct:

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

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

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

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

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

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

- (A) The length of the relationship;
 - (B) The type of relationship; and
 - (C) The frequency of interaction between the persons involved in the relationship.
 - (d) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.
- (19) "Title IX coordinator" is responsible for processing Title IX complaints and conducting or overseeing formal investigations and any informal resolution processes under this procedure.

NEW SECTION

WAC 72-120-415 Rights of parties. The provisions of these supplemental procedures shall apply equally to the respondent and the complainant.

The school bears the burden of offering and presenting sufficient evidence to establish that the respondent is responsible for engaging in sex discrimination, sex-based harassment, or retaliation related to or arising from such allegations by a preponderance of the evidence.

The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

NEW SECTION

WAC 72-120-420 Determination. (1) Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the decision maker:

(a) May question parties and witnesses to adequately assess a party's or witness's creditability to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. This process involves:

(i) The decision maker will request the party or witness to attend an interview;

(ii) During the interview, the decision maker may ask questions that do not seek irrelevant or impermissible evidence;

(b) Will use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decision maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision maker is not persuaded under this standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision maker will not determine that sex discrimination occurred;

(c) Will notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal;

(d) Will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination;

(e) Will comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and

(f) Will not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

(2) If there is a determination that sex discrimination occurred, the Title IX coordinator will, as appropriate:

(a) Coordinate the provision and implementation of remedies to a complainant and other people the agency identifies as having had equal access to the agency's education program or activity limited or denied by sex discrimination;

(b) Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and

(c) Take other appropriate prompt and effective steps to ensure that sex discrimination does not recur within the agency's education program or activity.

NEW SECTION

WAC 72-120-425 Disciplinary process for sex-based harassment.

(1) Following a determination that sex-based harassment occurred, the associate director of campus programs or designee will make a disciplinary decision and may impose disciplinary sanctions, which may include detention, behavior contracts, restrictions of privileges, reprimand, restitution, suspensions, or expulsion.

(2) Any discipline imposed under the section is subject to the requirements in WAC 72-120-201 and 392-172A-05140 through 392-172A-05175.

(3) Following a determination that sex-based harassment occurred, the Title IX coordinator or designee may provide remedies, which may include alternative class schedules, counseling, or residential assignment.

NEW SECTION

WAC 72-120-430 Appeals. (1) If the complainant or respondent disagrees with the decision maker's determination, the disagreeing party may appeal the determination by filing a written notice of appeal with the school's superintendent or designee within 21 calendar days following the date upon which the complainant received the determination.

(2) The school will implement appeal procedures equally for both parties and provide written notice to the other party when an appeal is filed.

(3) The school will ensure that the decision maker for the appeal is not the same decision maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX coordinator.

(4) The hearing will commence by the 20th calendar day following the filing of the written notice of appeal, unless otherwise agreed to by the complainant and the superintendent for good cause.

(5) Both parties will be allowed a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome of the initial determination.

(6) Unless otherwise agreed to by the parties, the decision maker on appeal will render a written decision within 20 calendar days following the filing of the notice of appeal and provide the parties with a copy of the decision.

(7) The written decision will describe the result of the appeal and the rationale for the result.

NEW SECTION

WAC 72-120-435 Extension of time frames. The time frames in these supplemental procedures may be extended on a case-by-case basis for good cause and with notice to the parties that includes the reason for the delay.

(1) The Title IX coordinator, decision maker, or superintendent, may send written notice to the parties stating the extension of the time frame for a major stage and the reason for the extension; or

(2) A party may submit a written request to the Title IX coordinator asking for an extension of the time frame for a major stage and the reason for requesting the extension.

WSR 24-23-051

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed November 15, 2024, 10:36 a.m., effective November 15, 2024, 10:36 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Creating certified agency affiliated counselor and licensed agency affiliated counselor credentials. Amending 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, and continued them under WSR 23-23-136, filed November 17, 2023; WSR 24-07-062, filed March 15, 2024; WSR 24-07-100, filed March 20, 2024; and WSR 24-15-077, filed July 18, 2024.

This emergency rule continues without changing the original emergency rule package's amendments to chapter 246-810 WAC, which expand existing language to establish two new credentials, the certified agency affiliated counselor and the licensed agency affiliated counselor. The amendments align rule language with statute and revise the registered AAC fees to apply to all AAC types. These emergency rules will be continued while permanent rule making is in progress under WSR 23-16-044, filed on July 25, 2023.

Previous emergency rule amendments to chapter 246-341 WAC, which aligned the definition of MHP with 2SHB 1724, have been discontinued, as these amendments were adopted in permanent rule under WSR 24-17-003, filed August 8, 2024.

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

Statutory Authority for Adoption: RCW 18.19.050.

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 amend 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 credentials, but not the 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 re-

quired 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 3, Repealed 0.

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

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

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

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

Date Adopted: November 15, 2024.

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

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 24-23-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-264—Filed November 15, 2024, 11:42 a.m., effective November 15, 2024, 11:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule closes purse seine test fishing in week 47 for Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11.

Citation of Rules Affected by this Order: Repealing WAC 220-354-12000U.

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 the week 47 purse seine vessel test fishing schedule for the F/V Harbor Gem, F/V Lisa Marie, and F/V Tradition in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9, 10, and 11. The schedule adjustment is necessary to minimize impacts to natural winter chum stocks returning to south sound and have been agreed to by 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 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 15, 2024.

Kelly Susewind
Director

REPEALER

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

WAC 220-354-12000U Puget Sound salmon—Purse seine—Open periods. (24-262)

WSR 24-23-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-266—Filed November 15, 2024, 12:28 p.m., effective November 15, 2024, 12:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule is necessary to update the taxonomy of mitten crabs, a prohibited level 1 species.

Citation of Rules Affected by this Order: Amending WAC 220-640-030.

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

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

Reasons for this Finding: This rule is necessary to correct the taxonomic reference to mitten crabs described in WAC 220-640-030 (2)(a). Mitten crabs are considered prohibited level 1 species by the department of fish and wildlife and listed as injurious wildlife by the Lacey Act under 50 C.F.R. 16.13. The Integrated Taxonomic Information System (ITIS) lists mitten crabs under the family *Varunidae*, necessitating this emergency rule to correct the mitten crab listing in WAC 220-640-030. ITIS is considered the authoritative taxonomic information on plants, animals, fungi, and microbes of North America and the world by United States Geological Survey. Additionally, this rule will correct a spelling error in permanent rules for the genus *Eriochelone*. 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 15, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-640-03000B Prohibited level 1 species. Notwithstanding the provisions of WAC 220-640-030, effective immediately, until further notice, the family taxonomy for mitten crabs and spelling of the

genus shall be modified as contained herein, all other provisions of WAC 220-340-030 not contained herein remain in effect:

The following species are classified as prohibited level 1 species:

Family Varunidae: Mitten crabs: All members of the genus Eriocher.

WSR 24-23-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-267—Filed November 15, 2024, 3:34 p.m., effective November 18, 2024]

Effective Date of Rule: November 18, 2024.

Purpose: This emergency rule will close purse seine and gillnet seasons in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B for the year.

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 necessary to close the preseason week 47 planned schedule of the commercial purse seine and gillnet openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 12 and 12B. Catch rates, abundance, and quality of fish available in Marine Areas 12 and 12B have all declined and the number of buyers available has decreased. Canceling these fisheries will help ensure that late returning chum are available for broodstock, with limited economic impact. 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 15, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000V Puget Sound salmon—Purse seine—Open periods.

Effective November 19, 2024, 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 modified as follows. All other provisions of WAC 220-354-120 not con-

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

Area(s)	Open/Closed	Time	Date(s)
12, 12B	Closed	NA	11/19

NEW SECTION

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

Effective November 18 through November 20, 2024, 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 modified 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	Open/Closed	Time	Date(s)	Minimum Mesh size
12, 12B	Closed	NA	11/18, 11/20	NA