

**WSR 22-07-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-35—Filed March 2, 2022, 1:46 p.m., effective March 5, 2022, 8:00 a.m.]

Effective Date of Rule: March 5, 2022, 8:00 a.m.

Purpose: Amends recreational smelt harvest rule in the Cowlitz River.

Citation of Rules Affected by this Order: Repealing WAC 220-315-03000D; and amending WAC 220-315-030.

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 sets a limited Cowlitz River recreational fishery for eulachon smelt. This rule conforms to the Washington and Oregon Eulachon Management Plan and remains within harvest guidelines. The expected return of eulachon to the Columbia River in 2022 is expected to be larger in magnitude to the run in 2021. The fishery serves as an important test fishery to monitor run strength and timing and to collect biological data. The National Oceanic and Atmospheric Administration fisheries concurs that a limited fishery is consistent with recovery of eulachon smelt. There is insufficient time to adopt permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: March 2, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-315-03000D Smelt—Areas and seasons** Notwithstanding the provisions of WAC 220-315-030 and WAC 220-315-010, the Columbia River and Washington tributaries are closed to fishing for eulachon smelt except as provided below:

**Open Dates:** Saturday, March 5, 2022.

8:00 a.m. to 1:00 p.m. (5-hour period).

**Open Area:** Cowlitz River (bank only) from the HWY 432 Bridge upstream to the Al Helenberg Memorial Boat Ramp located approximately 1,300 feet upstream of the HWY 411/A Street Bridge in Castle Rock.

**Daily Limit:** 10 pounds. Possession limit equal to one daily limit. In the field, each person harvesting smelt must use a separate container to hold their catch and the container must be in the harvester's presence or identified with the harvester's name.

**Gear:** Smelt may be taken with dip net only.

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REPEALER

The following section of the Washington Administrative Code is repealed effective 1:01 p.m. March 5, 2022:

WAC 220-315-03000D Smelt—Areas and seasons

**WSR 22-07-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

[Filed March 3, 2022, 8:03 a.m., effective March 6, 2022]

Effective Date of Rule: March 6, 2022.

Purpose: The department is extending the suspension of the rules listed below to ensure long-term care facilities and providers are not significantly impeded during the hiring process due to an inability to access required tuberculosis (TB) testing as a result of the COVID-19 epidemic [pandemic]. Clinics providing TB testing continue to be short of staff and have limited availability throughout the state. These clinics are unable to provide the TB testing required as a part of the hiring process in many long-term care programs. These emergency rules will help increase the number of long-term care workers necessary to provide essential services for some of Washington's most vulnerable residents.

Citation of Rules Affected by this Order: Repealing WAC 388-76-10265, 388-76-10285, 388-78A-2484 and 388-107-0490; and amending WAC 388-76-10290(1), 388-78A-2480(1), 388-78A-2485(1), 388-101D-0650(1), 388-101D-0660(3), and 388-107-0460(1).

Statutory Authority for Adoption: Statutory authority for adoption: RCW 70.128.040, 71A.12.030; chapters 18.20 and 70.97 RCW.

Other Authority: Chapters 70.128, 71A.12, and 74.34 RCW.

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

Reasons for this Finding: The continued threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as long-term care facilities. While vaccinations are being distributed, this alone has not yet significantly improved staffing availability in long-term care facilities. Although the state has implemented a phased reopening plan, clinics providing TB testing continue to be short of staff and have limited availability throughout the state partially due to higher than normal requests for services related to overdue standard screening tests such as TB. Adult family homes and many assisted living facilities are dependent upon community services to provide TB testing. These clinics are unable to meet the demand for testing required as a part of the hiring process in many long-term care programs. This circumstance has exacerbated the demand for long-term care workers when the pandemic has already significantly reduced the availability of long-term care workers in the state.

Ongoing communication with stakeholders indicates a need to continue these suspended rules as the COVID[-19] pandemic is still impacting the ability of long-term care facilities to meet these requirements. With the rise in COVID[-19] testing, the ability to get the antigen tests for TB has been very limited in availability as labs are trying to meet testing demands for COVID[-19]. Many assisted living [facilities] do not have the nurses on staff available to perform the TB skin testing in-house currently. The department filed a CR-101 Preproposal under WSR 20-16-069.

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 4.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 4.

Date Adopted: March 2, 2022.

Katherine I. Vasquez  
Rules Coordinator

## SHS-4796.2

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

**WAC 388-76-10290 Tuberculosis—Positive test result.** When there is a positive result to tuberculosis skin or blood testing the adult family home must:

- (1) ~~((Ensure that the person has a chest X-ray within seven days; (2)))~~ Ensure each resident or employee with a positive test result is evaluated for signs and symptoms of tuberculosis; and  
~~((3))~~ (2) Follow the recommendation of the person's health care provider.

[Statutory Authority: RCW 70.128.040. WSR 10-03-064, § 388-76-10290, filed 1/15/10, effective 2/15/10. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10290, filed 10/16/07, effective 1/1/08.]

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

**WAC 388-78A-2480 Tuberculosis—Testing—Required.** ~~((1) The assisted living facility must develop and implement a system to ensure each staff person is screened for tuberculosis within three days of employment.~~

~~(2))~~ For purposes of WAC 388-78A-2481 through 388-78A-2489, "staff person" means any assisted living facility employee or temporary employee of the assisted living facility, excluding volunteers and contractors.

[Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2480, filed 6/18/13, effective 7/19/13; WSR 10-03-066, §

388-78A-2480, filed 1/15/10, effective 2/15/10. Statutory Authority: RCW 18.20.090. WSR 06-24-073, § 388-78A-2480, filed 12/4/06, effective 1/4/07; WSR 06-01-047, § 388-78A-2480, filed 12/15/05, effective 1/15/06. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-2480, filed 7/30/04, effective 9/1/04.]

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

**WAC 388-78A-2485 Tuberculosis—Positive test result.** When there is a positive result to tuberculosis skin or blood testing the assisted living facility must:

(1) (~~Ensure that the staff person has a chest X-ray within seven days;~~

~~(2))~~ Ensure each resident or staff person with a positive test result is evaluated for signs and symptoms of tuberculosis; and

~~((3))~~ (2) Follow the recommendation of the resident or staff person's health care provider.

[Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2485, filed 6/18/13, effective 7/19/13; WSR 10-03-066, § 388-78A-2485, filed 1/15/10, effective 2/15/10.]

AMENDATORY SECTION (Amending WSR 18-23-101, filed 11/20/18, effective 1/1/19)

**WAC 388-101D-0650 What must a group training home do to detect and manage tuberculosis?** To detect and manage tuberculosis, a group training home must:

(1) (~~Ensure each employee has a tuberculin test no more than three days after beginning to work with clients unless otherwise exempt under this chapter;~~

~~(2))~~ Implement policies and procedures that comply with tuberculosis standards set by the Centers for Disease Control and Prevention and applicable state laws;

~~((3))~~ (2) Comply with the Washington Industrial Safety and Health Act (WISHA) standards for respiratory protection; and

~~((4))~~ (3) Comply with chapter 296-842 WAC requirements to protect the health and safety of clients who may come into contact with people who have infectious tuberculosis.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 71A.12.040 and 71A.22.010. WSR 18-23-101, § 388-101D-0650, filed 11/20/18, effective 1/1/19.]

AMENDATORY SECTION (Amending WSR 18-23-101, filed 11/20/18, effective 1/1/19)

**WAC 388-101D-0660 When is a group training home employee not required to complete a tuberculin test?** (1) A group training home employee is not required to complete a tuberculin test if the employee:

- (a) Has documentation of an FDA-approved tuberculin test with negative results from within the last twelve months;
  - (b) Has documentation of a positive FDA-approved tuberculin test with documented evidence of:
    - (i) Adequate therapy for active disease; or
    - (ii) Completion of treatment for latent tuberculosis infection preventive therapy;
  - (c) Self-reports a history of positive test results under subsection (2) or (3) of this section.
- (2) If a group training home employee self-reports a history of positive test results with chest X-ray results from the last twelve months, the employee must:
- (a) Provide a copy of the normal X-ray results to the group training home; and
  - (b) Be evaluated for signs and symptoms of tuberculosis.
- ~~(3) ((If a group training home employee self-reports a history of positive test results without chest X-ray results, the employee must:~~
- ~~(a) Be referred to a medical provider;~~
  - ~~(b) Complete a chest X-ray within seven days; and~~
  - ~~(c) Be cleared by a medical professional before returning to work if the X-ray is abnormal and consistent with tuberculosis.~~
- ~~(4))~~ A group training home volunteer working less than four hours a month is exempt from tuberculin test requirements.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 71A.12.040 and 71A.22.010. WSR 18-23-101, § 388-101D-0660, filed 11/20/18, effective 1/1/19.]

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

**WAC 388-107-0460 Tuberculosis (TB)—Testing—Required.** The enhanced services facility must:

- ~~((1) Develop and implement a system to ensure staff have TB testing upon employment or starting service; and~~
- ~~(2))~~ Ensure that staff have an annual risk assessment completed using the Washington state department of health approved criteria.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0460, filed 9/12/14, effective 10/13/14.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-76-10265 Tuberculosis—Testing—Required.

WAC 388-76-10285 Tuberculosis—Two step skin testing.  
WAC 388-78A-2484 Tuberculosis—Two step skin testing.  
WAC 388-107-0490 Tuberculosis (TB)—Two-step skin testing.

**WSR 22-07-011**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-37—Filed March 4, 2022, 9:13 a.m., effective March 4, 2022]

Effective Date of Rule: March 4, 2022.

Purpose: The purpose of this emergency rule is to close commercial crab harvest in Region 1, one hour after official sunset on Sunday, March 6, 2022. The provisions of this emergency rule:

**WAC 220-340-42000B:**

(1) Requires all crab harvested to be delivered to an original receiver or recorded on a shellfish transportation ticket within 36 hours of harvest. Requires separate transportation tickets to be completed for each day's harvest not delivered to an original receiver that is stored off the fishing vessel. Implements a 10-day restriction on the length of time that crab may be stored off-vessel before being delivered to an original receiver.

(2) Implements a labeling requirement for crab that are stored off-vessel.

(3) Implements a labeling requirement for crab that are stored off-vessel and not delivered to an original receiver within 36 hours.

**WAC 220-340-45500H:**

(1) Defines subareas east and west of Marine Fish-Shellfish Catch Reporting Area 23C to align with agreed-to boundaries within the Region 3 2021-2022 crab management plan.

(2) Closes Puget Sound commercial crab harvest in Crab Management Region 1 effective one hour after official sunset on March 6, 2022. Opens Region 3-4 effective one hour before official sunrise on Sunday, March 6, 2022. Implements hard closure dates for Crab Management Regions 3-1, 3-3, and 3-4. Maintains closure of Crab Management Regions 2 East, 2 West, and 3-2.

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

(4) Repeals areas where recreational and tribal harvest has been allowed that state commercial harvest has been historically limited.

**WAC 220-340-47000F:**

(1) Allows deployment of up to 35 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 1 until one hour after official sunset on March 6, 2022.

(2) Allows deployment of up to 25 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 3-1.

(3) Allows deployment of up to 60 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 3-3.

(4) Allows deployment of up to 35 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 3-4 effective immediately.

(5) Requires undeployed buoy tags to be retained for inspection.

**WAC 220-352-34000R:**

(1) Clarifies the Puget Sound commercial dealer quick reporting requirements.

(2) Implements a Puget Sound "stored crab" harvest report requirement for crab not delivered to an original receiver with[in] 36 hours of harvest.



(3) Implements a Puget Sound sales report requirement for stored crab that have been reported but not landed.

(4) Implements a registration requirement for commercial license holders to notify the department of their fishing status and which crab management area a license will be fishing in if active.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000B, 220-340-45500H, 220-340-47000F and 220-352-34000R; and amending WAC 220-340-420, 220-340-455, 220-340-470, and 220-352-340.

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: Commercial crab harvest in Crab Management Region 1 will close one hour after official sunset on Sunday, March 6, 2022. Region 3-4 will open one hour before official sunrise on March 6, 2022, to allow for cleanup opportunity. There is sufficient allocation available in Regions 3-1 and 3-3 to accommodate continued commercial harvest.

These provisions are in conformity with agreed regional management plans with applicable tribes or in accordance with procedures proscribed in the shellfish implementation plan when no annual regional management plan agreement has been reached. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustment of season structure may be made pending updated harvest data.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 4, Amended 0, Repealed 4.

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: March 4, 2022.

Kelly Susewind  
Director

#### NEW SECTION

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

(1) Crab Management Region 1 includes Marine Fish-Shellfish Catch Reporting Areas (MFSFCRA) 20A, 20B, 21A, 21B, 22A, 22B. Crab Management Region 2E includes MFSF Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A East. Crab Management Region 2 West includes MFSF Catch Reporting Areas 25B, 25D, and 26A West. Crab Management Region 3-1 includes MFSF Catch Reporting Areas 23A and 23B. Crab Management Region 3-2 includes MFSF Catch Reporting Areas 25A, 25E, and 23D. Crab Management Region 3-3 includes MFSF Catch Reporting Areas 23C East, and Crab Management Region 3-4 consists of 23C West and 29.

(2) Effective immediately, until further notice, all crab removed from a vessel licensed and fishing in Puget Sound that are not delivered to an original receiver within 36 hours must be recorded on a commercial fish and shellfish transportation ticket. Separate commercial fish and shellfish transportation tickets must be filled out for each day's harvest retained in this manner. It is illegal to retain and store crab prior to delivery and completion of a fish receiving ticket for more than 10 days.

(3) Effective immediately, until further notice, all crab retained and removed from a vessel licensed and fishing in Puget Sound must be stored in containers based on date retained and labeled with the following:

(a) Date of harvest,

(b) An estimate of pounds of crab in each container, and

(c) Either the MFSF Catch Reporting Area or the Crab Management Region the catch originated from.

(4) Effective immediately, until further notice, all crab retained and removed from a vessel licensed and fishing in Puget Sound that are not delivered to an original receiver within 36 hours must be stored in containers based on date retained and labeled with the following:

(a) Date of harvest,

(b) An estimate of pounds of crab in each container,

(c) Either the MFSF Catch Reporting Area or the Crab Management Region the catch originated from, and

(d) Commercial fish and shellfish transportation ticket number.

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#### NEW SECTION

**WAC 220-340-45500I Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455:

(1) For the purposes of crab harvest allocation, fishing season, and catch reporting, the following Marine Fish-Shellfish (MFSF) Catch Reporting Areas are modified as follows:

(a) Catch Area 23C East (23C-E) includes those waters of Puget Sound westerly of a line due north from the Ediz Hook light to the international boundary; and easterly of a line projected due north from Low Point.

(b) Catch Area 23C West (23C-W) includes those waters of Puget Sound westerly of a line due north from Low Point to the international boundary; and easterly of a line projected due north from the mouth of the Sekiu River.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing: Crab Management Regions 2E, 2W, and 3-2.

(3) It is permissible to harvest Dungeness crab for commercial purposes from the following areas, as listed:

(a) Crab Management Region 1: effective immediately until 1 hour after official sunset on March 6, 2022.

(b) Crab Management Region 3-1: effective immediately until further notice or until 1 hour after official sunset on March 31, 2022, whichever comes first.

(c) Crab Management Region 3-3: effective immediately until further notice or until 1 hour after official sunset on April 15, 2022, whichever comes first.

(d) Crab Management Region 3-4: effective 1 hour before official sunrise on Sunday, March 6, 2022 until further notice or 1 hour after official sunset on April 15, 2022, whichever comes first.

(4) Public Health Closures: Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

That portion of Marine Fish/Shellfish Catch Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

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

#### NEW SECTION

**WAC 220-340-47000G Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas.** Notwithstanding the provisions of WAC 220-340-470:

(1) Effective immediately, until 1 hour after official sunset on March 6, 2022, it is unlawful for any person to harvest crabs for commercial purposes with more than 35 pots per license in Crab Management Region 1.

(2) Effective immediately, until further notice or until 1 hour after official sunset on March 31, 2022, whichever comes first, it is unlawful for any person to harvest crabs for commercial purposes with more than 25 pots per in Crab Management Region 3-1.

(3) Effective immediately, until further notice or until 1 hour after official sunset on April 15, 2022, whichever comes first, it is unlawful for any person to harvest crabs for commercial purposes with more than 60 pots per license in Crab Management Region 3-3.

(4) Effective one hour before official sunrise on Sunday, March 6, 2022, until 1 hour after official sunset April 15, 2022, or further notice, whichever comes first, it is unlawful for any person to harvest crabs for commercial purposes with more than 35 pots per license in Crab Management Region 3-4.

(5) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

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

NEW SECTION**WAC 220-352-34000S Puget Sound crab—Additional reporting requirements.**

Notwithstanding the provisions of WAC 220-352-340, (1) Effective immediately, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab landed by WDFW licensed Puget Sound commercial crab harvesters to fail to report to the department the previous day's purchases by 10:00 a.m. the day following the purchase. Reports must be made online at the Puget Sound commercial crab reporting website, by fax to (360) 302-3031, or by e-mail at [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov). Reports must include all of the following:

- (a) Dealer name,
- (b) Dealer license number,
- (c) Dealer phone number,
- (d) Date of delivery of crab to the original receiver, and
- (e) The total number of pounds of crab caught by WDFW licensed commercial fishers by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area.

(2) Effective immediately, until further notice, commercial harvesters of crab in Puget Sound must deliver all crab removed from their vessel to a licensed original receiver within 36 hours or submit a report of crab retained for delivery at a future date to the Department. Reports must be received within 36 hours following an offload. Reports must be made by online on the Puget Sound commercial crab reporting website or by e-mail at [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov). Reports must contain all of the following:

- (a) Harvester name,
- (b) WDFW issued vessel ID,
- (c) Puget Sound commercial license number,
- (d) Date of harvest,
- (e) An estimate of pounds of harvest retained by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area, and
- (f) A commercial fish and shellfish transportation ticket number.

(3) Effective immediately, until further notice, commercial harvesters of crab in Puget Sound must report the delivery of all crab to an original receiver that were previously retained off-vessel by 10:00 a.m. the day following delivery to an original receiver. Reports must be made online at the Puget Sound commercial crab reporting website, or by e-mail at [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov). Reports must contain all of the following:

- (a) Harvester name,
- (b) WDFW issued vessel ID,
- (c) Puget Sound commercial license number,
- (d) Date of sale,
- (e) Dealer name,
- (f) Commercial shellfish transportation ticket number(s) delivered, and
- (g) Fish receiving ticket number(s) corresponding to landing date of delivery.

(4) Effective immediately, until further notice, Puget Sound commercial crab license holders, or their designated alternate operators, must register which Crab Management Region that gear will be deployed in for each license they hold prior to the opening date or if licenses are not being fished. Registrations must be updated when gear moves

between areas or fishing activity stops. Registrations can be made by registering on the WDFW Puget Sound commercial crabbing web page or sending an email to [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov), detailing the following information:

- (a) Vessel Operator Name
- (b) Vessel Name and Vessel Registration Number
- (c) License Number(s) to be fished
- (d) Crab Management Region to be fished or an indication that licenses will remain unfished
- (e) Gear Deployment Date

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

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

### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-340-42000B Commercial crab fishery—Unlawful acts. (22-15)
- WAC 220-340-45500H Commercial crab fishery—Seasons and areas—Puget Sound. (22-15)
- WAC 220-340-47000F Commercial crab fishery—Gear requirements—Puget Sound. (22-15)
- WAC 220-352-34000R Puget Sound crab—Additional reporting requirements. (22-15)

**WSR 22-07-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-36—Filed March 4, 2022, 9:43 a.m., effective March 16, 2022]

Effective Date of Rule: March 16, 2022.

Purpose: The purpose of this emergency rule is to reduce the adult salmon daily limit in Drano Lake, Klickitat River, and Wind River; and to open hatchery steelhead seasons in Salmon Creek (Clark County).

Citation of Rules Affected by this Order: Amending WAC 220-312-030.

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

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

Reasons for this Finding: This emergency rule is necessary to reduce the adult salmon daily limit in Drano Lake, Klickitat River, and Wind River; and to open hatchery steelhead seasons in Salmon Creek (Clark County) for the following reasons:

Drano Lake: The 2022 preseason forecast for Drano Lake (3,800 adults) is the third lowest return between 2000 and 2021 (roughly 50 percent of the recent 10-year average). Expanded hatchery programs intended to increase tribal and sport harvest for spring Chinook and support recovery of southern resident killer whales have increased the broodstock collection goal at Little White Salmon National Fish Hatchery. The adult salmon daily limit is being reduced to provide spring Chinook angling opportunity, while also ensuring broodstock collection goals are achieved.

Klickitat River: An estimated 1,800 adult spring Chinook are forecast to return to Klickitat River in 2022. The adult salmon daily limit is being reduced to ensure that hatchery Chinook broodstock goals are achieved. Reducing the adult salmon daily limit will provide continued opportunity for anglers to harvest spring Chinook and help ensure future hatchery returns.

Wind River: The preseason forecast of spring Chinook returning to Wind River (4,200 adults) indicates that a reduced adult salmon daily limit is needed to provide spring Chinook angling opportunity and meet broodstock collection goals at Carson National Fish Hatchery.

Salmon Creek (Clark County): Changes to the Salmon Creek hatchery steelhead program, resulting from the Mitchell Act Biological Opinion, have resulted in the replacement of early returning winter steelhead stocks with local stocks that exhibit a somewhat later run timing [time]. This rule opens hatchery steelhead fishing during the time frame outlined above and provides anglers with additional time to harvest these fish from Salmon Creek.

The Washington department of fish and wildlife will continue to monitor spring Chinook returns with comanagers and National Fish Hatchery staff to determine whether additional fishery modifications are needed in the Drano Lake, Klickitat River, and Wind River salmon fisheries.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 4, 2022.

Kelly Susewind  
Director

## NEW SECTION

**WAC 220-312-03000H Freshwater exceptions to statewide rules—Southwest.** Effective March 16, 2022, until further notice, the provisions of WAC 220-312-030 regarding Drano Lake, Klickitat River, Salmon Creek, and Wind River salmon and steelhead seasons shall be modified during times and as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

**(1) Drano Lake (Skamania Co.):** Downstream of markers on a point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 bridge: Salmon and hatchery steelhead: Effective March 16 until further notice:

Daily limit 2; of which up to 1 may be a hatchery Chinook. Release all salmon other than hatchery Chinook.

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

(a) From the mouth to Fisher Hill Bridge:

(i) Effective April 1 through May 27, 2022: Salmon and steelhead:

(A) Open Mondays, Wednesdays, and Saturdays only.

(B) Salmon and steelhead: Daily limit 2; up to 1 salmon or 2 hatchery steelhead or 1 of each may be retained. Release wild Chinook.

(ii) Effective May 28, 2022, until further notice: Salmon: Daily limit 6; up to 1 adult may be retained. Release wild Chinook.

(b) From 400 feet upstream from #5 fishway to boundary markers below Klickitat Salmon hatchery: Effective May 28, 2022, until further notice: Salmon: Daily limit 6; up to 1 adult may be retained. Release wild Chinook.

**(3) Salmon Creek (Clark Co.):** From the mouth to the 182nd Avenue Bridge: Effective March 16 through May 27, 2022: Steelhead: Daily limit 3. Selective Gear Rules in effect, except use of barbed hooks is allowed.

**(4) Wind River (Skamania Co.):** From the mouth to 800 yards downstream of Carson National Fish Hatchery: Effective March 16, 2022, until further notice: Salmon and hatchery steelhead: Daily limit 6; up to 1 adult salmon and 1 hatchery steelhead or up to 2 hatchery steelhead may be retained. Release all salmon other than hatchery Chinook.

[ ]

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



**WSR 22-07-013**

**RESCISSION OF EMERGENCY RULES**

**DEPARTMENT OF**

**CHILDREN, YOUTH, AND FAMILIES**

[Filed March 4, 2022, 1:09 p.m., effective March 6, 2022]

Effective March 6, 2022, the department of children, youth, and families requests to withdraw WSR 22-06-060 filed on February 25, 2022.

Please contact Brenda Villarreal at 360-522-3691 if you have any questions or need anything further.

Brenda Villarreal  
Rules Coordinator

**WSR 22-07-018  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 22-38—Filed March 7, 2022, 4:40 p.m., effective March 16, 2022]

Effective Date of Rule: March 16, 2022.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons from March 16 through 22, 2022.

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

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

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. Washington department of health has certified clams from these razor clam areas 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: March 7, 2022.

Kelly Susewind  
Director

NEW SECTION

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

(1) Effective 12:01 p.m. March 16 through 11:59 p.m. March 19, 2022, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during afternoon and evening tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	March 16 through March 19	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	March 16 through March 19	From 12:01 p.m. to 11:59 p.m.
Area 4	March 17 and March 19	From 12:01 p.m. to 11:59 p.m.
Area 5	March 16, and March 18	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) Effective 12:01 a.m. March 20 through 11:59 a.m. March 22, 2022, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during morning tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	March 20 through March 22	From 12:01 a.m. to 11:59 a.m.
Area 2	Closed	Closed
Area 3	March 20 through March 22	From 12:01 a.m. to 11:59 a.m.
Area 4	March 21	From 12:01 a.m. to 11:59 a.m.
Area 5	March 20 and March 22	From 12:01 a.m. to 11:59 a.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(3) 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 sections of the Washington Administrative Code are repealed effective 12:01 a.m. March 23, 2022:

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

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

WSR 22-07-021  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE

[Order 22-39—Filed March 8, 2022, 3:07 p.m., effective March 8, 2022, 3:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open recreational sturgeon retention seasons in the Columbia River's John Day Pool.

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

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

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

Reasons for this Finding: This rule is needed to close the season for sturgeon sport harvest in John Day Reservoir. These populations are managed under sustainable harvest guidelines and these actions are taken to keep harvest within that guideline. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearing on December 15, 2021, January 25, 2022, and March 1, 2022. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 8, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000K Freshwater exceptions to statewide rules—Columbia River.** Effective immediately, through April 30, 2022 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 shall be modified as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

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

(a) It is permissible to retain white sturgeon on the following dates only: March 9 and March 16, 2022. All other days are closed to the retention of sturgeon.

(b) The daily limit of white sturgeon is one fish between 38 inches minimum and 54 inches maximum fork length.

(c) Catch and release angling for sturgeon is permissible on all days, including days closed to the retention of sturgeon.

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

(a) It is permissible to retain white sturgeon only on the following dates: March 9, 12, 14, 16, 19, 21, 23, 26, 28, and 30, 2022. All other days are closed to the retention of sturgeon.

(b) The daily limit of white sturgeon is one fish between 43 inches minimum and 54 inches maximum fork length.

(c) Catch and release angling for sturgeon is permissible on all days, including days closed to the retention of sturgeon.

**(3) From John Day Dam to McNary Dam, including adjacent tributaries:**

(a) Effective March 10 through April 30, 2022, sturgeon retention is prohibited.

(b) Catch and release angling for sturgeon is permissible on all days, including days closed to the retention of sturgeon.

[]

**REPEALER**

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

WAC 220-312-06000J Freshwater exceptions to statewide rules—Columbia River. (22-34)

**WSR 22-07-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)  
[Filed March 10, 2022, 10:23 a.m., effective March 17, 2022]

Effective Date of Rule: March 17, 2022.

Purpose: The department is extending the amendment of the rule listed below to assure [ensure] certified community residential services and supports (CCRSS) providers are not significantly impeded from providing services and support to clients during the COVID-19 pandemic. Governor Inslee's Proclamation 20-18 and subsequent extensions identified that the pandemic resulted in disruptions of long-term care systems, including the ability to safely conduct inspections. The governor's proclamations included the suspension of licensing inspections for all long-term care settings with the exception of CCRSS settings. Current rule states the department may conduct an on-site certification evaluation for each service provider at any time, but at least once every two years. The amendment lengthens the amount of time to complete certification evaluations that are currently suspended for consistency and safety across all programs regulated by the department. The amendment will allow the department additional time to complete certification evaluations when it is safe and practical to do so. The department filed a CR-101 under WSR 20-24-092 and is continuing the process of permanent rule making. In addition, under the rule development phase of rule making, the department is in discussions with stakeholders about adding language to the rules to explain the circumstances and time periods under which suspension of rules due to COVID[-19] is necessary. In the meantime, the department is extending the emergency rule under RCW 34.05.350

Citation of Rules Affected by this Order: Amending WAC 388-101-3130.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.080.

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 threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as CCRSS settings. Current CCRSS rules ensure the department may conduct on-site certification evaluations of each CCRSS service provider at any time, but at least every two years. Due to the suspension of certification evaluations, as proclaimed for all other long-term care settings related to the COVID-19 pandemic, the amendment allows for additional time to complete the certification evaluations when the pandemic subsides.

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

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

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

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

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

Date Adopted: March 9, 2022.

Katherine I. Vasquez  
Rules Coordinator

### SHS-4821.1

AMENDATORY SECTION (Amending WSR 08-02-022, filed 12/21/07, effective 2/1/08)

**WAC 388-101-3130 Certification evaluation.** (1) The department may conduct an on-site certification evaluation of each service provider at any time(~~(, but at least once every two years)~~).

(2) During certification evaluations the service provider's administrator or designee must:

(a) Cooperate with department representatives during the on-site visit;

(b) Provide all contractor records, client records, and other relevant information requested by the department representatives;

(c) Ensure the service provider's administrator or designee is available during any visit to respond to questions or issues identified by department representatives; and

(d) Ensure the service provider's administrator or designee is present at the exit conference.

[Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3130, filed 12/21/07, effective 2/1/08.]

**WSR 22-07-029**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-40—Filed March 10, 2022, 4:48 p.m., effective March 14, 2022]

Effective Date of Rule: March 14, 2022.

Purpose: Closes commercial harvest in all Sea Urchin Districts.

Citation of Rules Affected by this Order: Repealing WAC  
220-340-75000K.

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 in all sea urchin districts. At this time, urchin spawning period is near its peak resulting in poor quality product for the market; while districts 1, 6, and 7 have green urchin quota remaining, all other districts have been closed as their quotas were reached. 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: March 10, 2022.

Amy H. Windrope  
for Kelly Susewind  
Director

REPEALER

The following section of Washington Administrative Code is repealed effective March 14, 2022:

WAC 220-340-75000K Commercial sea urchin fishery. (22-32)



**WSR 22-07-031**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-41—Filed March 11, 2022, 10:19 a.m., effective March 11, 2022, 10:19 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: This rule extends the tribal winter gillnet fishery in John Day Pool. This rule is consistent with actions of the Columbia River Compact on March 10, February 23, February 15, February 9, and January 25, 2022. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

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

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions

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

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

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

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

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

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

Date Adopted: March 11, 2022.

Kelly Susewind  
Director

#### NEW SECTION

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

(1) Open Areas: SMCRA 1H (John Day Pool)

(a) Season: 6 AM Saturday, March 12 to 6 PM Wednesday, March 16, 2022.

(b) Gear: Gillnets with no minimum mesh size restriction.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 43 to 54 inches fork length caught in the John Day Pool may be sold or kept for subsistence purposes. Fish landed during the open periods are allowed to be sold after the period concludes.

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

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

(a) Season: Immediately through 6 PM Saturday, March 19, 2022.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 38 to 54 inches fork length caught in the Bonneville Pool and sturgeon from 43 to 54 inches fork length caught in The Dalles and John Day pools may be sold or kept for subsistence purposes. Sturgeon within the legal-size limit and caught in the platform and hook and line fishery may only be sold if caught during the open period and open pool of an open gillnet fishery.

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

(3) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

[]

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000A Columbia River salmon seasons above Bonneville Dam. (22-29)

**WSR 22-07-036**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-42—Filed March 11, 2022, 4:04 p.m., effective March 11, 2022, 4:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends freshwater fishing rules for Columbia River sturgeon.

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

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

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

Reasons for this Finding: This rule is needed to close the season for sturgeon sport harvest in Bonneville Reservoir. These populations are managed under sustainable harvest guidelines and these actions are taken to keep harvest within that guideline. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearings on December 15, 2021, January 25, 2022, and March 1, 2022. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 11, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000L Freshwater exceptions to statewide rules—Columbia River.** Effective immediately, through April 30, 2022 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 shall be modified as follows. All other provisions of WAC 220-312-060, WAC 220-316-010, and WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

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

(a) Effective immediately through April 30, 2022, sturgeon retention is prohibited.

(b) Catch and release angling for sturgeon is permissible on all days, including days closed to sturgeon retention.

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

(a) It is permissible to retain white sturgeon only on the following dates: March 12, 14, 16, 19, 21, 23, 26, 28, and 30, 2022. All other days are closed to sturgeon retention.

(b) The daily limit of white sturgeon is one fish between 43 inches minimum and 54 inches maximum fork length.

(c) Catch and release angling for sturgeon is permissible on all days, including days closed to sturgeon retention

**(3) From John Day Dam to McNary Dam, including adjacent tributaries:**

(a) Effective immediately through April 30, 2022, sturgeon retention is prohibited.

(b) Catch and release angling for sturgeon is permissible on all days, including days closed to sturgeon retention

[]

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-312-06000K Freshwater exceptions to statewide rules—Columbia River. (22-39)

**WSR 22-07-038**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

[Filed March 14, 2022, 10:08 a.m., effective March 23, 2022]

Effective Date of Rule: March 23, 2022.

Purpose: The department is extending the amendment of the rules listed below to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. These amendments will continue to align state nursing home rules with federal rules that were suspended or amended to help facilitate care during the COVID-19 pandemic. The federal rules were amended to allow physicians to delegate tasks to a physician's assistant, nurse practitioner, or clinical nurse specialist. Current state rules specify physicians must perform some tasks. The amendment will permit delegation of those tasks as long as the task is within the scope of practice of the delegate, and the delegate works under the supervision of the physician. The department filed a Preproposal CR-101 under WSR 20-17-133. In addition, under the rule development phase of rule making, the department continues with discussions about adding language to the rules to explain the circumstances and time periods under which suspension of rules due to COVID[-19] is necessary.

Citation of Rules Affected by this Order: Amending WAC 388-97-1260.

Statutory Authority for Adoption: RCW 74.42.620.

Other Authority: Chapter 74.34 RCW.

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

Reasons for this Finding: The continued threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as long-term care facilities. Current nursing home rules require physicians perform certain tasks. The rules also restrict the frequency of delegation from a physician to a registered nurse practitioner or a physician's assistant, depending on the payor source of the resident and whether the bed the resident occupies is certified for medicare, medicaid, or both. The amendment will permit the physician to delegate tasks, even if it is required to be performed by the physician in regulation and regardless of the frequency of the delegation. The amendment does not change the required frequency of physician visits or the requirement for the physician to supervise the delegate. This amendment aligns state rules with federally waived rules to permit increased delegation of physician tasks to a registered nurse practitioner or a physician's assistant during the declared emergency. This amendment provides flexibility for physicians to better prioritize their time and will help to ensure nursing home residents receive assessment and care by a qualified health care provider in a timely manner.

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

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

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

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

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

Date Adopted: March 11, 2022.

Katherine I. Vasquez  
Rules Coordinator

### SHS-4803.1

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

**WAC 388-97-1260 Physician services.** (1) The nursing home must ensure that the resident is seen by the physician whenever necessary.

(2) Except as specified in RCW 74.42.200, a physician must personally approve in writing a recommendation that an individual be admitted to a nursing home.

(3) The nursing home must ensure that:

(a) Except as specified in RCW 74.42.200, the medical care of each resident is supervised by a physician;

(b) Another physician supervises the medical care of residents when their attending physician is unavailable; and

(c) Physician services are provided twenty-four hours per day, in case of emergency.

(4) The physician must:

(a) Write, sign and date progress notes at each visit;

(b) Sign and date all orders; and

(c) In medicare and medicare/medicaid certified facilities, review the resident's total program of care, including medications and treatments, at each federally required visit.

(5) Except as specified in (~~subsections~~) subsection (6) (~~(7), and (9)~~) of this section, a physician may delegate tasks, including tasks that, under state law, must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is:

(a) Licensed by the state;

(b) Acting within the scope of practice as defined by state law; (~~and~~)

(c) Under the supervision of, and working in collaboration with the physician; and

(d) Not an employee of the facility, if caring for a resident whose payor source is medicaid.

(6) The physician may not delegate a task when the delegation is prohibited under state law or by the facility's own policies.

(7) (~~If the resident's primary payor source is medicare, the physician may:~~

~~(a) Alternate federally required physician visits between personal visits by:~~

~~(i) The physician; and~~

~~(ii) An advanced registered nurse practitioner or physician's assistant; and~~

~~(b) Not delegate responsibility for the initial required physician visit. This initial visit must occur within the first thirty days of admission to the facility.~~

~~(8) If the resident's payor source is medicaid, the physician may delegate any federally required physician task, including tasks which the regulations specify must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is not an employee of the facility but who is working in collaboration with a physician.~~

~~(9) If the resident's payor source is not medicare or medicaid:~~

~~(a) In the medicare only certified facility or in the medicare certified area of a medicare/medicaid facility, the physician may alternate federally required physician visits between personal visits by the physician and an advanced registered nurse practitioner or physician's assistant. The physician may not delegate responsibility for the initial required physician visit.~~

~~(b) In the medicaid only certified facility or in the medicaid certified area of a medicare/medicaid facility, the physician may delegate any federally required physician task, including tasks which the regulations specify must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is not an employee of the facility but who is working in collaboration with a physician.~~

~~(10) The following table describes the physician visit requirements related to medicare or medicaid certified area and payor type.~~

	Beds in medicare only certified area	Beds in medicare/medicaid certified area	Beds in medicaid only certified area
Payor source:	Initial by physician	Initial by physician	N/A
medicare	Physician may delegate alternate visits	Physician may delegate alternate visits	
Payor source:	N/A	Delegate all tasks	Delegate all tasks
medicaid		Nonemployee	Nonemployee
Payor source:	Initial by physician	Initial by physician	Delegate all tasks
Others: such as insurance, private pay, Veteran Affairs	Physician may delegate alternate visits	Physician may delegate alternate visits	Nonemployee

~~(11)) The attending physician, or the physician-designated advanced registered nurse practitioner or physician's assistant must:~~

~~(a) Participate in the interdisciplinary plan of care process as described in WAC 388-97-1020;~~

~~(b) Provide to the resident, or where applicable the resident's surrogate decision maker, information so that the resident can make an informed consent to care or refusal of care (see WAC 388-97-0260); and~~

~~(c) Order resident self-medication when appropriate.~~

~~((12)) (8) The nursing home must obtain from the physician the following medical information before or at the time of the resident's admission:~~

~~(a) A summary or summaries of the resident's current health status, including history and physical findings reflecting a review of systems;~~



(b) Orders, as necessary for medications, treatments, diagnostic studies, specialized rehabilitative services, diet, and any restrictions related to physical mobility; and

(c) Plans for continuing care and discharge.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. WSR 08-20-062, § 388-97-1260, filed 9/24/08, effective 11/1/08.]

**WSR 22-07-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)  
[Filed March 14, 2022, 10:08 a.m., effective March 16, 2022]

Effective Date of Rule: March 16, 2022.

Purpose: WAC 388-823-0510 Developmental disabilities administration (DDA) is clarifying from whom it accepts a written statement indicating a person's autism prevents the person from completing a full-scale intellectual quotient (FSIQ) test.

Citation of Rules Affected by this Order: Amending WAC 388-823-0510.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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 expands the list of professionals qualified to provide a written statement that a person's autism prevents them from completing FSIQ testing. This change prevents disruption in service for DDA clients whose statement from a professional does not meet currently enacted requirements. A more comprehensive list of qualified professionals assists applicants for DDA services. This change reduces the potential impact to hospitals, law enforcement agencies, and behavioral health institutes by preserving the person's current living situation in the community. DDA eligibility and access to DDA services support both the client and the care system by providing predictable, stable services. Enacting this emergency rule prevents potential harm brought by disruption to services, or inability to access services.

This is the second emergency filing on this section. This subsequent filing is necessary to keep the amendments in effect until DDA can complete the permanent rule-making process. The department filed a CR-101 Preproposal under WSR 21-24-017.

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

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

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

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

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

Date Adopted: March 11, 2022.

Katherine I. Vasquez  
Rules Coordinator

## SHS-4905.1

AMENDATORY SECTION (Amending WSR 21-13-164, filed 6/23/21, effective 8/1/21)

**WAC 388-823-0510 What constitutes substantial limitation due to autism?** (1) To establish substantial limitation due to autistic disorder diagnosed under the DSM-IV-TR, you must have an adaptive skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) To establish substantial limitation due to autism spectrum disorder diagnosed under the DSM-5 you must:

(a) Have an adaptive-skills test score more than two standard deviations below the mean as described in WAC 388-823-0740 and subject to WAC 388-823-0740 and WAC 388-823-0750; and

(b) Have either:

(i) A full-scale intellectual quotient (FSIQ) score more than one standard deviation below the mean as described in WAC 388-823-0720 and subject to WAC 388-823-0720 and WAC 388-823-0730; or

(ii) A ~~((written))~~ signed statement from a ~~((professional))~~ professional that your autism prevents you from completing ~~((the))~~ FSIQ testing. "Qualified professional" means:

(A) Board-certified neurologist;

(B) Board-certified psychiatrist;

(C) Licensed psychologist;

(D) Licensed physician associated with an autism center, developmental center, or center of excellence; or

(E) Board-certified developmental and behavioral pediatrician.

[Statutory Authority: RCW 71A.12.030, 71A.12.020 and 71A.16.020. WSR 21-13-164, § 388-823-0510, filed 6/23/21, effective 8/1/21. Statutory Authority: RCW 71A.12.030, 71A.12.120 and 74.08.090. WSR 14-12-046, § 388-823-0510, filed 5/29/14, effective 7/1/14. Statutory Authority: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050, and chapters 71A.10, 71A.12, and 71A.16 RCW. WSR 05-12-130, § 388-823-0510, filed 6/1/05, effective 7/2/05.]

## WSR 22-07-046

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed March 14, 2022, 2:42 p.m., effective March 14, 2022, 2:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-840-930 and 246-841-405, amending specific training requirements for nursing assistants registered (NARs) and home care aides (HCAs). The nursing care quality assurance commission (commission) is adopting an emergency rule to allow a registered nurse delegator to delegate nursing tasks to a NAR or HCA without verifying the NAR or HCA has completed basic caregiver training in accordance with WAC 246-840-930 (8)(b). To align with the corresponding NAR rule, the commission is adopting emergency language in WAC 246-841-405 (2)(a) to remove the requirement that a NAR must show proof of completion of the basic caregiver training before performing any delegated nursing task.

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

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

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

Reasons for this Finding: The immediate amendment of existing rules is necessary for the preservation of public health, safety, and general welfare. The department of social and health services (DSHS) is responsible to provide basic caregiver training for NARs and HCAs. Due to impacts on training caused by coronavirus disease 2019 (COVID-19), DSHS was not able to provide basic caregiver training for NARs and HCAs, but emergency rule provisions, first adopted in April 2020, allowed NARs and HCAs to perform delegated tasks without the basic caregiver training. With DSHS input, the emergency provision was not included in the January 14, 2022, emergency rule refiling that addresses additional pathways to comply with current standards to complete necessary training to enter the workforce. Subsequently, due to the magnitude of the backlog of NARs and HCAs who require the training, DSHS has requested reinstatement of the emergency provision.

The amendments eliminate barriers for these essential providers to continue participation in the health care workforce. Without amendments, NARs and HCAs who have been providing delegated services for the last two years would no longer be able to provide critical services or be able to respond to current patient care demands. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests.

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

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

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

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

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

Date Adopted: March 14, 2022.

Paula R. Meyer MSN, RN, FRE  
Executive Director  
Nursing Care Quality Assurance Commission

## OTS-3664.1

AMENDATORY SECTION (Amending WSR 13-15-063, filed 7/15/13, effective 8/15/13)

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

### ASSESS

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

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

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

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

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

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

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

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

(b) Has completed (~~both the basic caregiver training and~~) core delegation training before performing any delegated task;

(c) Has a certificate of completion issued by the department of social and health services indicating completion of the required core nurse delegation training;

(d) Has a certificate of completion issued by the department of social and health services indicating completion of diabetes training when providing insulin injections to a diabetic client; and

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

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

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

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

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

#### **PLAN**

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

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

(a) The rationale for delegating the nursing task;

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

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

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

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

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

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

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

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

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator uses to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant or home care aide of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document teaching done and a return demonstration, or other method for verification of competency; and

(m) Supervision shall occur at least every (~~ninety~~) 90 days. With delegation of insulin injections, the supervision occurs at least weekly for the first four weeks, and may be more frequent.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator, including insulin injections. Any other injection (intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise) is prohibited. The registered nurse delegator provides to the nursing assistant or home care aide written directions specific to an individual patient.

#### **IMPLEMENT**

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

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

#### **EVALUATE**

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

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

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

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

[Statutory Authority: RCW 18.79.110, 18.79.260, 2012 c 164, and 2012 c 10. WSR 13-15-063, § 246-840-930, filed 7/15/13, effective 8/15/13. Statutory Authority: RCW 18.79.110, 18.79.260, 18.88A060 [18.88A.060], and 18.88A.210. WSR 09-06-006, § 246-840-930, filed 2/18/09, effective 3/21/09. Statutory Authority: RCW 18.79.110, 18.79.260 (3) (f),

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

## OTS-3665.1

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

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

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

(2) Before performing any delegated task:

(a) Nursing assistants-registered must show the certificate of completion of (~~both the basic caregiver training and~~) core delegation training from the department of social and health services to the registered nurse delegator.

(b) Nursing assistants-certified must show the certificate of completion of the core delegation training from the department of social and health services to the registered nurse delegator.

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

(d) All nursing assistants, registered and certified, who may be completing insulin injections must give a certificate of completion of diabetic training from the department of social and health services to the registered nurse delegator.

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

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

(a) Only for the specific patient receiving delegation;

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

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

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

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

(a) Administration of medication by injection, with the exception of insulin injections;

(b) Sterile procedures;

(c) Central line maintenance;

(d) Acts that require nursing judgment.



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

**WSR 22-07-052**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-43—Filed March 15, 2022, 11:02 a.m., effective March 16, 2022]

Effective Date of Rule: March 16, 2022.

Purpose: The purpose of this emergency rule is to return Marine Area (MA) 10 salmon seasons to permanent rules.

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

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

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

Reasons for this Finding: The MA-10 winter Chinook fishery reopened on February 24 after a brief pause early in the season, and since that time the fishery has reached 25 percent of the total encounters (8,475), 22 percent of sublegal encounters (7,319) and 26 percent of unmarked encounters (1,105) agreed to in this year's list of agreed fisheries. Test fishing has indicated a higher rate of legal marked fish in MA-10, which has lowered the overall encounter rates throughout the season, providing adequate encounters to open more days and raise the retention limit for the remainder of the winter Chinook fishery. The MA-10 winter season is scheduled to close on March 31.

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: March 15, 2022.

Amy H. Windrope  
for Kelly Susewind  
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective March 16, 2022:

WAC 220-313-06000T Puget Sound salmon—Saltwater seasons and daily limits. (22-18)



**WSR 22-07-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed March 15, 2022, 3:01 p.m., effective March 15, 2022, 3:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of labor and industries (L&I) is responding to the coronavirus disease 2019 (COVID-19) pandemic by amending WAC 296-800-14035 related to prohibited business activities and compliance with conditions for operations under emergency proclamations and their amendments issued under RCW 43.06.220.

Under the emergency rule:

- Employers must not allow employees to perform work where a business activity is prohibited by an emergency proclamation.
- Employers must comply with all conditions for operation required by [an] emergency proclamation.

L&I is monitoring the emergency proclamations, information including guidance from the Centers for Disease Control (CDC), and data on COVID-19 and will repeal the emergency rule if no longer needed.

Citation of Rules Affected by this Order: New WAC 296-800-14035.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

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

Reasons for this Finding: This emergency rule making supersedes the emergency rule adopted on February 16, 2022, filed as WSR 22-05-097. Conditions have changed due to the updated Proclamation 20-25.19, Washington Ready rescinding the face covering requirement in most settings. L&I is taking action to help prevent the spread of COVID-19 and respond to the governor's proclamations establishing conditions for business operations consistent with the recommendations of medical and safety professionals as to how businesses may continue operation without increasing the risk of COVID-19 spreading. L&I filed a Preproposal statement of inquiry (CR-101) in accordance with 2021's ESSB 5092, section 220(8) related to infectious diseases to ensure the state has general guidelines to follow in the case of an infectious disease outbreak. This would include when there is an outbreak subject to a public health emergency under a national or state declared state of emergency.

As discussed in Proclamation 20-25.19, face covering requirements in most settings was rescinded due to the continued reduction in COVID-19 cases and hospitalizations in the state. Under Proclamation 20-25.19, face coverings continue to be required in health care settings, long-term care settings, and correctional and jail facilities for both employees and visitors. For these settings, employees who are verified as vaccinated do not have to wear a face covering at the employer's work site in indoor areas not generally assessable [accessible] to the public only if the employer has verified they are fully vaccinated. The prohibitions for any state agency, operator of an education setting, and operator of a health care setting to permit workers to engage in work if the worker is not fully vaccinated against

COVID-19 and provided proof of vaccination status under Proclamation 21-14.3 are also still in effect.

Business operations and employee exposures are one component of the overall public health emergency response presented by COVID-19 and ensuring compliance with the proclamation requirement helps to protect the safety and health of employees.

The business operating conditions in the governor's orders are also consistent with the purpose of chapter 49.17 RCW and guidance from CDC. Chapter 49.17 RCW and L&I rules require employers to provide a safe and healthy workplace free from recognized hazards, and an employer can be cited for a violation of the "safe place" rule where there are no specific rules to address the particular hazard. Lack of COVID-19 hazard controls such as failure to address symptomatic employees can be cited under the "safe place" standard. This emergency rule ensures clarity that restrictions and conditions on business under the emergency proclamations are also health and safety requirements under chapter 49.17 RCW and that employers can be subject to a citation and monetary penalties for violations.

This emergency rule is necessary for the preservation of public health, safety, and general welfare of all employees. The governor's proclamations have found that the hazards of the unnecessary spread of COVID-19 present an immediate threat to public health and safety. The governor's proclamations are currently in effect, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest and the governor's orders.

L&I is monitoring the emergency proclamations, information including guidance from CDC, and data on COVID-19 and will repeal the emergency rule if no longer needed.

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 1, Repealed 0.

Date Adopted: March 15, 2022.

Joel Sacks  
Director

**OTS-2313.6**

NEW SECTION

**WAC 296-800-14035 2019 Novel coronavirus prohibited business activities and compliance with conditions for operations.** (1) Where a

business activity is prohibited by an emergency proclamation an employer shall not allow employees to perform work.

(2) Employers must comply with all conditions for operation required by emergency proclamation issued under RCW 43.06.220.

(3) An "emergency proclamation" means a proclamation that is in effect, including proclamation amendments and conditions, and issued under RCW 43.06.220 and is in effect at the time the emergency rule was adopted.

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**WSR 22-07-056**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-44—Filed March 15, 2022, 3:50 p.m., effective March 15, 2022, 3:50 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to close commercial crab harvest in Region 3-4, effective immediately.

The provisions of this emergency rule:

**WAC 220-340-42000E:**

(1) Requires all crab harvested to be delivered to an original receiver or recorded on a shellfish transportation ticket within 36 hours of harvest. Requires separate transportation tickets to be completed for each day's harvest not delivered to an original receiver that is stored off the fishing vessel. Implements a 10-day restriction on the length of time that crab may be stored off-vessel before being delivered to an original receiver.

(2) Implements a labeling requirement for crab that are stored off-vessel.

(3) Implements a labeling requirement for crab that are stored off-vessel and not delivered to an original receiver within 36 hours.

**WAC 220-340-45500J:**

(1) Defines subareas east and west of Marine Fish-Shellfish Catch Reporting Area 23C to align with agreed-to boundaries within the Region 3 2021-2022 crab management plan.

(2) Closes Puget Sound commercial crab harvest in Region 3-4 effective immediately due to quota attainment. Maintain closures for Crab Management Regions 1, 2 East, 2 West, and 3-2.

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

(4) Repeals areas where recreational and tribal harvest has been allowed that state commercial harvest has been historically limited.

**WAC 220-340-47000H:**

(1) Allows deployment of up to 25 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 3-1.

(2) Allows deployment of up to 60 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 3-3.

(3) Requires undeployed buoy tags to be retained for inspection.

**WAC 220-352-34000T:**

(1) Clarifies the Puget Sound commercial dealer quick reporting requirements.

(2) Implements a Puget Sound "stored crab" harvest report requirement for crab not delivered to an original receiver with 36 hours of harvest.

(3) Implements a Puget Sound sales report requirement for stored crab that have been reported but not landed.

(4) Implements a registration requirement for commercial license holders to notify the department of their fishing status and which crab management area a license will be fishing in if active.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000D, 220-340-45500I, 220-340-47000G and 220-352-34000S; and amending WAC 220-340-420, 220-340-455, 220-340-470, and 220-352-340.

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: Commercial crab harvest in Crab Management Region 3-4 will close immediately due to quota attainment. There is sufficient allocation available in Regions 3-1 and 3-3 to accommodate continued commercial harvest.

These provisions are in conformity with agreed regional management plans with applicable tribes or in accordance with procedures proscribed in the shellfish implementation plan when no annual regional management plan agreement has been reached. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustment of season structure may be made pending updated harvest data.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 4, Amended 0, Repealed 4.

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: March 15, 2022.

Amy H. Windrope  
for Kelly Susewind  
Director

## NEW SECTION

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

(1) Crab Management Region 1 includes Marine Fish-Shellfish (MFSF) Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B. Crab Management Region 2E includes MFSF Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A East. Crab Management Region 2 West includes MFSF Catch Reporting Areas 25B, 25D, and 26A West. Crab Management Region 3-1 includes MFSF Catch Reporting Areas 23A and 23B. Crab Management Region 3-2 includes MFSF Catch Reporting Areas 25A, 25E, and 23D. Crab Management Region 3-3 includes MFSF Catch Reporting Areas 23C East, and Crab Management Region 3-4 consists of 23C West and 29.

(2) Effective immediately, until further notice, all crab removed from a vessel licensed and fishing in Puget Sound that are not deliv-



ered to an original receiver within 36 hours must be recorded on a commercial fish and shellfish transportation ticket. Separate commercial fish and shellfish transportation tickets must be filled out for each day's harvest retained in this manner. It is illegal to retain and store crab prior to delivery and completion of a fish receiving ticket for more than 10 days.

(3) Effective immediately, until further notice, all crab retained and removed from a vessel licensed and fishing in Puget Sound must be stored in containers based on date retained and labeled with the following:

(a) Date of harvest,

(b) An estimate of pounds of crab in each container, and

(c) Either the MFSF Catch Reporting Area or the Crab Management Region the catch originated from.

(4) Effective immediately, until further notice, all crab retained and removed from a vessel licensed and fishing in Puget Sound that are not delivered to an original receiver within 36 hours must be stored in containers based on date retained and labeled with the following:

(a) Date of harvest,

(b) An estimate of pounds of crab in each container,

(c) Either the MFSF Catch Reporting Area or the Crab Management Region the catch originated from, and

(d) Commercial fish and shellfish transportation ticket number.

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

#### NEW SECTION

#### **WAC 220-340-45500J Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455:

(1) For the purposes of crab harvest allocation, fishing season, and catch reporting, the following Marine Fish-Shellfish (MFSF) Catch Reporting Areas are modified as follows:

(a) Catch Area 23C East (23C-E) includes those waters of Puget Sound westerly of a line due north from the Ediz Hook light to the international boundary; and easterly of a line projected due north from Low Point.

(b) Catch Area 23C West (23C-W) includes those waters of Puget Sound westerly of a line due north from Low Point to the international boundary; and easterly of a line projected due north from the mouth of the Sekiu River.

(2) Effective immediately, until further notice, the following areas are closed to commercial crab fishing: Crab Management Regions 1, 2E, 2W, 3-2 and 3-4.

(3) It is permissible to harvest Dungeness crab for commercial purposes from the following areas, as listed:

(a) Crab Management Region 3-1: effective immediately until further notice or until 1 hour after official sunset on March 31, 2022, whichever comes first.

(b) Crab Management Region 3-3: effective immediately until further notice or until 1 hour after official sunset on April 15, 2022, whichever comes first.

(4) Public Health Closures: Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

That portion of Marine Fish/Shellfish Catch Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

[]

#### NEW SECTION

#### **WAC 220-340-47000H Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas.**

Notwithstanding the provisions of WAC 220-340-470:

(1) Effective immediately, until further notice or until 1 hour after official sunset on March 31, 2022, whichever comes first, it is unlawful for any person to harvest crabs for commercial purposes with more than 25 pots per in Crab Management Region 3-1.

(2) Effective immediately, until further notice or until 1 hour after official sunset on April 15, 2022, whichever comes first, it is unlawful for any person to harvest crabs for commercial purposes with more than 60 pots per license in Crab Management Region 3-3.

(3) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

[]

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

#### NEW SECTION

#### **WAC 220-352-34000T Puget Sound crab—Additional reporting requirements.** Notwithstanding the provisions of WAC 220-352-340:

(1) Effective immediately, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab landed by WDFW licensed Puget Sound commercial crab harvesters to fail to report to the department the previous day's purchases by 10:00 a.m. the day following the purchase. Reports must be made online at the Puget Sound commercial crab reporting website, by fax to (360) 302-3031, or by e-mail at [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov). Reports must include all of the following:

(a) Dealer name,  
(b) Dealer license number,  
(c) Dealer phone number,  
(d) Date of delivery of crab to the original receiver, and  
(e) The total number of pounds of crab caught by WDFW licensed commercial fishers by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area.

(2) Effective immediately, until further notice, commercial harvesters of crab in Puget Sound must deliver all crab removed from their vessel to a licensed original receiver within 36 hours or submit a report of crab retained for delivery at a future date to the Department. Reports must be received within 36 hours following an offload.

Reports must be made by online on the Puget Sound commercial crab reporting website or by e-mail at [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov). Reports must contain all of the following:

- (a) Harvester name,
  - (b) WDFW issued vessel ID,
  - (c) Puget Sound commercial license number,
  - (d) Date of harvest,
  - (e) An estimate of pounds of harvest retained by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area, and
  - (f) A commercial fish and shellfish transportation ticket number.
- (3) Effective immediately, until further notice, commercial harvesters of crab in Puget Sound must report the delivery of all crab to an original receiver that were previously retained off-vessel by 10:00 a.m. the day following delivery to an original receiver. Reports must be made online at the Puget Sound commercial crab reporting website, or by e-mail at [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov). Reports must contain all of the following:

- (a) Harvester name,
  - (b) WDFW issued vessel ID,
  - (c) Puget Sound commercial license number,
  - (d) Date of sale,
  - (e) Dealer name,
  - (f) Commercial shellfish transportation ticket number(s) delivered, and
  - (g) Fish receiving ticket number(s) corresponding to landing date of delivery.
- (4) Effective immediately, until further notice, Puget Sound commercial crab license holders, or their designated alternate operators, must register which Crab Management Region that gear will be deployed in for each license they hold prior to the opening date or if licenses are not being fished. Registrations must be updated when gear moves between areas or fishing activity stops. Registrations can be made by registering on the WDFW Puget Sound commercial crabbing web page or sending an email to [crab.report@dfw.wa.gov](mailto:crab.report@dfw.wa.gov), detailing the following information:
- (a) Vessel Operator Name
  - (b) Vessel Name and Vessel Registration Number
  - (c) License Number(s) to be fished
  - (d) Crab Management Region to be fished or an indication that licenses will remain unfished
  - (e) Gear Deployment Date

[ ]

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

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

## REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-340-42000D Commercial crab fishery—Unlawful acts.  
(22-37)
- WAC 220-340-45500I Commercial crab fishery—Seasons and  
areas—Puget Sound. (22-37)
- WAC 220-340-47000G Commercial crab fishery—Gear  
requirements—Puget Sound. (22-37)
- WAC 220-352-34000S Puget Sound crab—Additional reporting  
requirements. (22-37)

## WSR 22-07-063

## EMERGENCY RULES

## DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed March 17, 2022, 7:51 a.m., effective March 17, 2022, 7:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728, medication assistance. The pharmacy quality assurance commission (commission) and department of health (department) are filing jointly to reinstate medication assistance rules as permitted under chapter 69.41 RCW. This adopted emergency rule will extend WSR 21-23-098 filed on November 17, 2021. This rule establishes criteria for medication assistance in community-based and in-home care settings in accordance with chapter 69.41 RCW. The definition for medication assistance provided in RCW 69.41.010(15) states:

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

These emergency rules provide further definitions for terms used within this definition such as "enabler" and establish those "other means of medication assistance as defined by rule adopted by the department." These rules help impacted individuals retain their independence and live in the least restrictive setting, such as their own home, longer by providing means and guidance for medication assistance. Also, with the direction provided in RCW 69.41.010(15), the rules are being filed under the joint authority of the commission and the department.

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

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

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

Reasons for this Finding: The commission's new chapter 246-945 WAC became effective in July 2020. The old rules, including the former rules on medication assistance (chapter 246-888 WAC), were repealed in March 2021. The commission's repeal of chapter 246-888 WAC has resulted in unintended disruptions for medication assistance in the community-based and in-home care settings permitted under chapter 69.41 RCW. Emergency rule making is necessary to immediately restore medication assistance regulations to preserve patient safety and welfare while the commission and the department work on permanent rule making. Permanent rule making has been authorized but delayed due to the ongoing coronavirus disease 2019 pandemic.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 10, Amended 0, Repealed 0.

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

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

Date Adopted: March 17, 2022.

Teri Ferreira, RPh  
Pharmacy Quality Assurance Chair  
and Kristin Peterson, JD  
Deputy Secretary  
Policy and Planning

OTS-2998.2

## PART 5 - MEDICATION ASSISTANCE

### NEW SECTION

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

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

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

and

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

[]

### NEW SECTION

**WAC 246-945-712 Self-administration with assistance, independent self-administration, and medication administration.** (1) Self-administration with assistance means assistance with legend drugs and controlled substances rendered by a nonpractitioner to an individual residing in a community-based care setting or an in-home care setting.

It includes reminding or coaching the individual to take their medication, handing the medication container to the individual, opening the medication container, using an enabler, or placing the medication in the hand of the individual/resident. The individual/resident must be able to put the medication into their mouth or apply or instill the medication. The individual/resident does not necessarily need to state the name of the medication, intended effects, side effects, or other details, but must be aware that they are receiving medication. Assistance may be provided by a nonpractitioner with prefilled insulin syringes. Assistance is limited to handing the prefilled insulin syringe to an individual/resident. Assistance with the administration of any other intravenous or injectable medication is specifically excluded. The individual/resident retains the right to refuse medication. Self-administration with assistance shall occur immediately prior to the ingestion or application of a medication.

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

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

[]

#### NEW SECTION

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

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

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

[]

NEW SECTION

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

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]



NEW SECTION

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

[]

NEW SECTION

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

[]

NEW SECTION

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

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**WSR 22-07-066**  
**EMERGENCY RULES**  
**HIGHLINE COLLEGE**

[Filed March 17, 2022, 3:43 p.m., effective April 8, 2022]

Effective Date of Rule: April 8, 2022.

Purpose: To update provisions to the supplemental discipline procedure for cases involving Title IX sexual harassment: "Order of precedence" section, enabling the college to contract with administrative law judges or other persons to act as the presiding officer; to update the Title IX appeals provision; to update the "evidence" section to remove the provision regarding cross examination.

Citation of Rules Affected by this Order: Amending WAC 132I-126-505, 132I-126-565, and 132I-126-585.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. United States Department of Education Office of Civil Rights, Letter to Students, Educators, and Other Stakeholders, *Victims Rights Law Center et al. v. Cardona*, <https://www2.ed.gov/about/offices/list/ocr/docs/202108-titleix-VRLC.pdf>.

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

Reasons for this Finding: Highline College is required by the United States Department of Education to comply with the recently adopted Title IX regulations, which take [took] effect on August 14, 2020.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: March 17, 2022.

Ay Saechao  
Dean of Student Support  
and Funding Services

**OTS-3561.1**

AMENDATORY SECTION (Amending WSR 21-14-003, filed 6/23/21, effective 7/24/21)

**WAC 132I-126-505 Order of precedence.** This supplemental procedure applies to allegations of sexual harassment subject to Title IX

jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132I-126-010 through 132I-126-300, these supplemental procedures shall take precedence. Highline College may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-14-003, § 132I-126-505, filed 6/23/21, effective 7/24/21.]

AMENDATORY SECTION (Amending WSR 21-14-003, filed 6/23/21, effective 7/24/21)

**WAC 132I-126-565 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))~~ **(5) Privileged evidence:** The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

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

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

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

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

(f) Other legal privileges identified in RCW 5.60.060.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-14-003, § 132I-126-565, filed 6/23/21, effective 7/24/21.]

AMENDATORY SECTION (Amending WSR 21-14-003, filed 6/23/21, effective 7/24/21)

**WAC 132I-126-585 Appeals.** (~~((1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132I-126-300.~~

~~(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).~~

~~(3) President's office shall serve the final decision on the parties simultaneously.)~~ (1) All parties, including the student conduct officer in their capacity as a representative of the college, 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 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) Upon receiving a timely appeal, the 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 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 president's office shall serve copies of the responses to the other parties.

(3) 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 president's office.

(4) The president or their delegate, based on their review of parties' submissions 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 is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.

(5) The president's office shall serve the final decision on the parties simultaneously.

(6) 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. No decisions or recommendations arising from

this disciplinary procedure will be subject to grievance pursuant to any collective bargaining agreement.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-14-003, § 132I-126-585, filed 6/23/21, effective 7/24/21.]

**WSR 22-07-068**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed March 18, 2022, 7:15 a.m.; effective March 18, 2022]

Effective Date of Rule: March 18, 2022.

Purpose: The department is extending emergency adoption of WAC 388-439-0005 What is the pandemic EBT program?, 388-439-0010 Eligibility of pandemic EBT benefits for the 2020-2021 school year, 388-439-0015 General information about pandemic EBT benefits, 388-439-0020 Eligibility for pandemic EBT benefits for children under age six, and 388-439-0025 Eligibility for pandemic EBT benefits during the 2021 summer period.

Emergency adoption of these rules support implementation of the pandemic EBT (P-EBT) program for eligible children who do not have access to regular free or reduced-price school meals or child care meals due to limited on-site learning or attendance in any school year in which there is a federal public health emergency designation (as allowed under Section 1101 of H.R. 6201, Families First Coronavirus Response Act, as amended by Section 1108 of H.R. 1319, American Rescue Plan Act of 2021).

Citation of Rules Affected by this Order: New WAC 388-439-0005, 388-439-0010, 388-439-0015, 388-439-0020, and 388-439-0025.

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

Other Authority: H.R. 6201, 8337, 133, 1319.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; 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: Emergency adoption of these rules is necessary to support implementation of the P-EBT program which protects the health, safety, and general welfare of Washington residents by supporting access to public assistance.

The department filed notice of its intent to adopt the rule as a permanent rule under WSR 21-23-108, and is actively undertaking appropriate procedures to adopt the rule as a permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 5, 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 5, 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 5, Amended 0, Repealed 0.

Date Adopted: March 17, 2022.

Katherine I. Vasquez  
Rules Coordinator

SHS-4858.7

**Chapter 388-439 WAC  
PANDEMIC EBT (P-EBT) PROGRAM**

NEW SECTION

**WAC 388-439-0005 What is the pandemic EBT program?** (1) The pandemic electronic benefits transfer (P-EBT) program is a federally funded nutrition program administered by the department of social and health services (department) and provides food benefits to eligible children who do not have access to meals at a covered childcare center or free or reduced-price school meals due to school closures or lack of in-person instruction caused by the COVID-19 public health emergency.

(2) The following definitions apply to this program:

(a) "Benefit level" means the P-EBT benefit amount provided to an eligible child based on the school's reported meal service to the majority of students enrolled in the school for the majority of the month;

(b) "Direct certification" means a determination that a child is eligible for free or reduced-priced school meals without further application to the national school lunch program due to:

(i) Receiving a benefit from a federal-means tested assistance program, including the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), food distribution program on Indian reservations (FDPIR), some medicaid programs; or

(ii) Other source eligible categories, including children in foster care, children experiencing homelessness, students enrolled in the migrant education program, and children enrolled in head start or the early childhood education and assistance program (ECEAP);

(c) "Eligible student" means a child or student, regardless of age, who would have access to free or reduced-price school meals through the national school lunch program (NSLP) and school breakfast program (SBP) during the school year, who is:

(i) Enrolled in a school or registered in a program in Washington state that normally participates in the NSLP;

(ii) Attending a school that has been closed or has reduced attendance or hours for five or more consecutive days during the school year due to the COVID-19 public health emergency designation; and

(iii) Determined by the school to be eligible for free or reduced-priced school meals or attends a school that operates the community eligibility provision or the provision 2 lunch and breakfast program. Students are identified as eligible for free or reduced-price

school meals using direct certification or free or reduced-price school meals application;

(d) "Free or reduced-price school meals" means meals provided to students qualified as eligible by the Richard B. Russell National School Lunch Act;

(e) "Full in-person learning" means meal service is available five days per week to the majority of students enrolled in the school for the majority of the month;

(f) "Majority" means more than fifty percent;

(g) "Meal service" means the typical meals (SBP and NSLP) served when school is in session and consumed onsite as part of the school day. Meal service includes both breakfast and lunch. Schools define the meal service provided to the majority of students enrolled in the school for the majority of the month as follows:

(i) "Full remote learning" means no meal service to students on school campus;

(ii) "Hybrid-learning" means partial in-person learning and meal service on school campus. Due to various hybrid-learning models across the state, the following levels have been defined as:

(A) "Level 1" is one-day meal service per week to students on school campus;

(B) "Level 2" is two-days meal service per week to students on school campus;

(C) "Level 3" is three-days meal service per week to students on school campus; or

(D) "Level 4" is four-days meal service per week to school on school campus;

(h) "Operating days" are days a school regularly operates, excluding weekends, breaks, and holidays;

(i) "P-EBT card" means the unique electronic benefit transfer (EBT) card that accesses P-EBT food benefits issued to eligible students or children under age six;

(j) "Public health emergency" means a federal declaration of a public health emergency due to the COVID-19 pandemic as issued by the secretary of health and human services;

(k) "School" means any public or nonprofit private schools, charter schools, and tribal compact schools within the state of Washington;

(l) "School closure" means that the school was closed for in-person or remote learning for the majority of the month, with no meal service available to students enrolled in the school;

(m) "Summer period" means the months between the end of the school year and the start of the next school year during which there was a public health emergency.

[ ]

#### NEW SECTION

**WAC 388-439-0010 Eligibility of pandemic EBT benefits for the 2020-2021 school year.** (1) To be eligible for federally funded pandemic electronic benefits transfer (P-EBT) benefit for the 2020-2021 school year, a student must be:

(a) An eligible student as defined under WAC 388-439-0005(2)(b) between September 1, 2020, to June 30, 2021; and



(b) Enrolled in a school that had a school closure, full remote learning, or hybrid-learning meal service during the public health emergency as reported by the school.

(2) An eligible student's P-EBT benefit level is calculated for the 2020-2021 school year by:

(a) Using the full daily meal reimbursement rate of six dollars and eighty-two cents for breakfast, lunch, and snack;

(b) Multiplied by the statewide average operating days of eighteen days per month;

(c) Multiplied using the percentage of benefit reimbursement based on the school's reported meal service under WAC 388-439-0005, reducing in twenty percent intervals as the student attends more days in-person with meal service; and

(d) Rounding the total benefit amount up to the nearest dollar.

Meal service reported	Dollar amount for the month
Full remote learning or school closure—Full benefit	\$123
Hybrid learning—Level 1—80% benefit	\$99
Hybrid learning—Level 2—60% benefit	\$74
Hybrid learning—Level 3—40% benefit	\$50
Hybrid learning—Level 4—20% benefit	\$25

(3) An eligible student is not eligible for P-EBT benefits if the school reports full in-person learning for the majority of students enrolled in the school for the majority of the month.

(4) P-EBT benefits are issued for a retroactive period of time to allow schools to report the applicable meal service during the applicable eligibility period.

(a) An initial one-time P-EBT allotment is issued for the months of September 2020 to January 2021;

(b) A subsequent one-time P-EBT allotment may be issued in April 2021, using the school's reported meal service for the preceding two months of February and March 2021;

(c) A subsequent one-time P-EBT allotment may be issued in June 2021, using the school's reported meal service for April, May, and June 2021; and

(d) P-EBT during the summer period benefits are disbursed under WAC 388-439-0025.

(5) An eligible student's benefits will be placed on a P-EBT card under WAC 388-439-0015.

(6) Issuance of P-EBT benefits beyond September 30, 2021, is subject to U.S. Department of Agriculture, Food and Nutrition Service (FNS) approval.

[]

NEW SECTION

**WAC 388-439-0015 General information about pandemic EBT benefits.** (1) Pandemic electronic benefit transfer (P-EBT) benefits will be deposited into an account accessible with a debit card called a P-EBT card. A P-EBT card will be issued to each eligible student or child under age six. Each P-EBT card will be:

- (a) Linked to an EBT account for each eligible student or child under age six for P-EBT benefits; and
- (b) Mailed to either:
  - (i) The address on file with the school for the eligible student; or
  - (ii) The address on file with the department for the basic food case for the child under age six.

(2) To use a P-EBT account:

- (a) The P-EBT card can be used by the eligible student or child under age six or responsible household member, such as a parent or caregiver, on behalf of the eligible student or child under age six, to access the benefits in their EBT account;
- (b) A personal identification number (PIN) has to be created that must be used with the P-EBT card to purchase food items;
- (c) P-EBT benefits must be accessed from the P-EBT card of an eligible student or child under age six. P-EBT benefits cannot be transferred to a bank account or issued as a check;
- (d) P-EBT benefits that are not used within two hundred seventy-four days from the last purchase or deposit activity on the eligible child's account will be removed; and
- (e) P-EBT benefits cannot be replaced once redeemed or removed. Families are responsible for keeping the P-EBT card and PIN of an eligible student or child under age six in a safe and secure place.

(3) The purpose of P-EBT benefits is to help low-income families or individuals have a more nutritious diet by providing food benefits to eligible children due to the COVID-19 public health emergency.

- (a) P-EBT benefits are used to buy food items for an eligible child (or youth) from a food retailer authorized to accept supplemental nutrition assistance program (SNAP) benefits by the U.S. department of agriculture food and nutrition service (FNS).
- (b) Use P-EBT benefits the same as other food benefits under WAC 388-412-0046 (2) (c).
- (c) It is not legal to use P-EBT benefits as described under WAC 388-412-0046 (2) (d).
- (d) If people intentionally misuse P-EBT benefits, they may be:
  - (i) Subject to fines; or
  - (ii) Subject to legal action, including criminal prosecution. Department of social and health services (DSHS) will cooperate with state, local, and federal prosecuting authorities to prosecute trafficking in P-EBT benefits.

[ ]

NEW SECTION

**WAC 388-439-0020 Eligibility for pandemic EBT benefits for children under age six.** (1) To be eligible for federally funded pandemic

electronic benefits transfer (P-EBT) benefits for children under age six, a child must be:

(a) A member of a household that received supplemental nutrition assistance program (SNAP) between October 1, 2020, to June 30, 2021;

(b) Under the age of six; and

(c) Residing in a county with at least one school in that county that had a school closure, full remote learning, or hybrid-learning meal service during the public health emergency as reported by the school.

(2) Children who do not qualify for federally funded P-EBT benefits because they are on state-funded food assistance program (FAP) may be eligible for state-funded P-EBT.

(a) State-funded P-EBT follows the same eligibility rules as subsection (1) of this section, except that the child must be a member of a household that received FAP, instead of SNAP, between October 1, 2020, to June 30, 2021.

(b) State-funded P-EBT benefits is contingent on the availability of state funds.

(3) We calculate a county standard benefit level for each month of P-EBT eligibility by:

(a) Using the full daily meal reimbursement rate of six dollars and eighty-two cents for breakfast, lunch, and snack;

(b) Multiplied by the statewide average operating days of eighteen days per month;

(c) Multiplied using a percentage of benefit reimbursement based on the school's reported meal service under WAC 388-439-0005 using the lowest available on-site meal service for at least one school in each county of the child's residence, as follows:

(i) One hundred percent if the lowest meal service is full remote learning or school closure;

(ii) Seventy percent if the lowest school meals service reported is hybrid learning - Level 1 or hybrid learning - Level 2; or

(iii) Thirty percent if the lowest school meal service reported is hybrid learning - Level 3 or hybrid learning - Level 4; and

(d) Rounding the total benefit amount up to the nearest dollar.

County lowest on-site school meal service	Dollar amount for the month
Full remote learning or school closure—Full benefit	\$123
Hybrid learning—Level 1—or Hybrid learning—Level 2—70% benefit	\$86
Hybrid learning—Level 3—or Hybrid learning—Level 4—70% benefit	\$37

(e) P-EBT benefits are issued for each month that:

(i) The household receives a SNAP or FAP benefit more than zero dollars; and

(ii) There is limited on-site meal service for at least one school in the county.

(4) P-EBT benefits are issued for a child under age six for a retroactive period of time as follows:

(a) An initial one-time P-EBT allotment is issued for the months of October 2020 to March 2021;

(b) A subsequent one-time P-EBT allotment is issued for the months of April to June 2021; and

(c) P-EBT during the summer period benefits are disbursed under WAC 388-439-0025.

(5) Benefits for a child under age six will be placed on a P-EBT card under WAC 388-439-0015.

(6) A child under age six who received P-EBT as an eligible student under WAC 388-439-0005 (2) (d) and WAC 388-439-0010, but who would receive more benefits as a child under age six under this section will be supplemented by federal or state funded P-EBT benefits. The child's total benefit amount is not to exceed the maximum P-EBT benefit of \$123 per month.

(7) Issuance of P-EBT benefits beyond September 30, 2021, is subject to U.S. Department of Agriculture, Food and Nutrition Service (FNS) approval and the availability of state funds.

[]

#### NEW SECTION

**WAC 388-439-0025 Eligibility for pandemic EBT benefits during the 2021 summer period.** (1) During the summer period of July and August 2021, schools and covered childcare centers will be deemed as closed.

(2) To be eligible for the pandemic electronic benefits transfer (P-EBT) benefit during the summer period after 2020-2021 school year, prior to August 31, 2021, a child must be:

(a) An eligible student as defined under WAC 388-439-0005(c) in June 2021; or

(b) A child under age six, as defined under WAC 388-439-0020(1), between June 1, 2021, to August 31, 2021.

(3) A child determined eligible in subsection (2) of this section will receive a one-time, lump sum payment of \$375 for the 2021 summer period.

(4) Summer P-EBT benefits for an eligible student or a child under age six will be placed on a P-EBT card under WAC 388-439-0015.

(5) Issuance of summer period benefits beyond September 30, 2021, is subject to U.S. Department of Agriculture, Food and Nutrition Service (FNS) approval and the availability of state funds.

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**WSR 22-07-075**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-45—Filed March 18, 2022, 4:24 p.m., effective April 7, 2022]

Effective Date of Rule: April 7, 2022.

Purpose: The purpose of this emergency rule is to open 2022 recreational halibut seasons.

Citation of Rules Affected by this Order: Amending WAC 220-314-030.

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

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

Reasons for this Finding: The National Marine Fisheries Service has adopted final regulations for Pacific halibut fisheries in 2022 including the season dates described here. This emergency rule revises state rules to conform to federal regulations. Halibut catch will continue to be closely monitored by the Washington department of fish and wildlife staff; seasons may close earlier if quotas are achieved.

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: March 18, 2022.

Kelly Susewind  
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-314-040, and 220-314-010, April 7, 2022, until further notice, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section. All other provisions of WAC 220-314-040, and 220-314-010, including Yelloweye Rockfish Conservation Areas (YRCA), not addressed herein, remain in effect unless otherwise amended by emergency rule:

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

Open May 5, 8, 12, 15, 19, 22, and 26; June 2, 5, 9, 12, 16, 19, 23, 26, and 30, 2022.

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

Open May 9, 10, 11, 16, 17, 18, 23, 24, 25, 30, and 31; June 1, 6, 7, 8, 13, 14, 15, 20, 21, 22, 27, 28, and 29, 2022.

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

Open May 5, 8, 12, 15, 19, 22, and 26; June 16, 19, 23, and 26, 2022.

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

Open May 5, 7, 12, 14, 19, 21, 27, and 29, June 2, 4, 9, 11, 16, 18, 23, 25, and 30.

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

Open May 5, 7, 12, 14, 19, 21, 27, 28, and 29, June 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, and 30.

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

Open April 7, 8, 9, 14, 15, 16, 21, 22, 23, 28, 29, and 30; May 5, 6, 7, 12, 13, 14, 19, 20, 21, 27, 28, and 29; June 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, and 30, 2022.

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

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

**WSR 22-07-082**  
**EMERGENCY RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed March 21, 2022, 11:24 a.m., effective March 21, 2022, 11:24 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend WAC 363-116-081 Rest period, to revise types of pilotage assignments subject to the requirement for 10 hours rest with the opportunity for eight hours of sleep after completion of an assignment. Puget Sound pilots (PSP) recently approved several measures to increase dispatching efficiency and pilot availability while observing state mandated rest rules. One of those measures is to allow a pilot to be dispatched to multiple assignments as long as the combined duration of the assignments does not exceed 13 hours. This rule-making initiative is to consider and codify that change.

Citation of Rules Affected by this Order: Amending WAC 363-116-081.

Statutory Authority for Adoption: Chapter 88.16 RCW, Pilotage Act.

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: Currently, there is a pilot shortage in both the Puget Sound and Grays Harbor pilotage districts. PSP recently approved efficiency measures, which they believe will result in enhanced pilot availability, improved on-watch productivity, reduced need for "call-back" pilots, and adherence to expert recommended work/rest best practices. Adopting this rule on an emergency basis is necessary to support the recovery of the supply chain and insure [ensure] essential goods are being delivered to the public and, more specifically, to communities in need as quickly as possible.

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

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

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

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

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

Date Adopted: March 17, 2022.

Jaimie C. Bever  
Executive Director

**OTS-3692.1**

AMENDATORY SECTION (Amending WSR 21-07-088, filed 3/19/21, effective 4/19/21)

**WAC 363-116-081 Rest period.** (1) Pilots shall observe rest period requirements as set out in RCW 88.16.103 as now or hereafter amended. Pilots shall have a mandatory rest period of at least ~~((ten))~~ 10 hours with an opportunity for eight hours of uninterrupted sleep after completion of an assignment ~~((; excluding))~~ or multiple assignments ~~((within a harbor area, provided the combined total duration of assignment time does not exceed thirteen hours))~~.

(2) An assignment is a billable pilotage service, including cancellations and ship movements, regardless of duration.

(3) An assignment begins at call time and ends at check-in time and includes preparation time and travel time to and from the ship in addition to bridge time. Call time allows one to two hours of preparation before the start of travel time to the ship. Check-in time occurs when travel time from the ship is completed. In the Puget Sound Pilotage district travel times are documented in the Puget Sound pilots operating rules and may be reviewed by the board from time to time.

(4) When there are multiple assignments ~~((within a harbor area (multiple harbor shifts), call time is before the first harbor shift and check-in time occurs when the travel time has been completed after the final harbor shift. Harbor area geographic definitions outlined by the utilities and transportation commission are used to distinguish harbor shifts from other ship moves.~~

~~(5) Pilots shall not complete more than three consecutive night assignments, a night assignment being one in which), the combined total duration of the assignments shall not exceed 13 hours. The total duration of multiple assignments shall be measured from the call time before the first assignment to check-in time after the final assignment.~~

(5) An assignment is a night assignment if any part occurs between 0100 and 0459 hours. After three consecutive nights with night assignments, pilots shall have a mandatory rest period of at least ~~((twelve))~~ 12 hours, including at least one period between 2000 and 0800 hours.

[Statutory Authority: Chapter 88.16 RCW. WSR 21-07-088, § 363-116-081, filed 3/19/21, effective 4/19/21. WSR 97-08-042, recodified as § 363-116-081, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. WSR 79-05-023 (Order 79-2, Resolution No. 79-2), § 296-116-081, filed 4/17/79; Order 73-6, § 296-116-081, filed 5/11/73.]



**WSR 22-07-083**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 22-46—Filed March 21, 2022, 1:51 p.m., effective March 22, 2022]

Effective Date of Rule: March 22, 2022.

Purpose: The purpose of this emergency rule is to [prohibit] recreational sturgeon retention in The Dalles Pool of the Columbia River.

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

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

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

Reasons for this Finding: This rule is needed to close the season for sturgeon sport harvest in The Dalles Reservoir. Creel data indicates that the 190 fish guideline is projected to be met as of March 21, 2022; and therefore, there is not enough fish remaining on the guideline to support the previously scheduled openings through March 30 in The Dalles Pool. These populations are managed under sustainable harvest guidelines and these actions are taken to keep harvest within each pool's allowed levels. This action is consistent with decisions made by the states of Washington and Oregon during the Columbia River compact hearings on December 15, 2021, January 25, 2022, and March 1, 2022. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 21, 2022.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-06000M Freshwater exceptions to statewide rules—Columbia River.** Effective March 22, through April 30, 2022 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 shall be modified as follows. All other provisions of WAC

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

**From Bonneville Dam to McNary Dam, including adjacent tributaries:**

- (a) Retention of sturgeon is prohibited.
- (b) Catch and release angling for sturgeon is permissible on all days, including days closed to sturgeon retention

[]

REPEALER

The following section of the Washington Administrative Code is repealed, effective March 22, 2022:

WAC 220-312-06000L Freshwater exceptions to statewide rules—Columbia River. (22-42)

## WSR 22-07-096

## EMERGENCY RULES

## HEALTH CARE AUTHORITY

[Filed March 22, 2022, 12:38 p.m., effective March 22, 2022, 12:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is revising this rule to remove the restriction that the WISE program only applies to medicaid clients and add language to clarify the program is for those clients eligible for coverage under WAC 182-505-0210.

Citation of Rules Affected by this Order: Amending WAC 182-501-0215.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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

Reasons for this Finding: The immediate revision of these rules is necessary to comply with the implementation of a settlement—Thurston County Superior Court in *A.G.C. v. Washington State Health Care Authority*, no. 21-2-00479-34. The settlement prohibits the agency from applying prior versions of these rules to requests for WISE services from individuals who are not medicaid clients. The current emergency filing under WSR 21-24-043, filed November 24, 2021, is set to expire on March 24, 2022. Since the last emergency filing, the agency has proceeded forward with drafting of the permanent rule, sent the draft to interested stakeholders for an external review and held a public hearing on March 22, 2022. The agency plans to file the permanent rules as soon as possible. This emergency filing will cover the time period from expiration of the previously filed emergency until the permanent rules can take effect.

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

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

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

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

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

Date Adopted: March 22, 2022.

Wendy Barcus  
Rules Coordinator

OTS-3495.1

AMENDATORY SECTION (Amending WSR 20-15-026, filed 7/7/20, effective 8/7/20)

**WAC 182-501-0215 Wraparound with intensive services (WISe).** (1) Wraparound with intensive services (WISe) is a service delivery model that provides comprehensive behavioral health covered services and support to:

(a) (~~Medicaid-eligible~~) Clients age ((~~twenty~~) 20 or younger with complex behavioral health needs who are eligible for coverage under WAC 182-505-0210; and

(b) Their families.

(2) The authority, the managed care organizations, and the WISe provider agencies must use, continue to use, and substantially comply with the WISe quality plan (WISe QP) for the delivery of WISe. The purpose of the WISe QP is to:

(a) Provide a framework for quality management goals, objectives, processes, tools, and resources to measure the implementation and success of the WISe service delivery model; and

(b) Guide production, dissemination, and use of measures used to inform and improve WISe service delivery.

(3) The WISe QP, as may be amended from time to time, is incorporated by reference and is available online at <https://www.hca.wa.gov/billers-providers-partners/behavioral-health-recovery/wraparound-intensive-services-wise>.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-15-026, § 182-501-0215, filed 7/7/20, effective 8/7/20.]