

WSR 22-15-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-131—Filed July 7, 2022, 4:31 p.m., effective July 7, 2022, 4:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set recreational fishing closure dates for a portion of the Skagit River.

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

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

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

Reasons for this Finding: This rule is necessary to set closure dates for all species in a portion of the Skagit River. Previously scheduled dates for the treaty fishery have changed. This closure is necessary to avoid gear conflicts during those scheduled treaty fisheries.

Additional periodic closures to prevent conflicts with tribal fisheries are expected. In-season closures will be announced as soon as possible.

This rule also maintains salmon seasons for the Skagit River, Cascade River, and Nooksack River, North Fork that were originally set in WSR 22-12-021 on May 28; WSR 22-13-004 on June 1; WSR 22-13-057 on June 8; WSR 22-13-073 on June 9; WSR 22-14-041 on June 27; and WSR 22-14-067 on June 29, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: July 7, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000I Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through July 15, 2022, the follow-

ing provisions of WAC 220-312-040 regarding salmon seasons for the Cascade River, Nooksack River, North Fork, and Skagit River, and periodic all species closures for Skagit River shall be modified during the dates and in locations listed and described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River** (Skagit Co.): From mouth to Rockport-Cascade Rd. Bridge: Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

(2) **Nooksack River, North Fork** (Whatcom Co.): From the Hwy. 9 Bridge to the yellow marker at the upstream side of the Kendall Hatchery: Salmon: Effective immediately, through July 10, 2022:

(a) Daily limit 2. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

(3) **Skagit River** (Skagit Co.):

(a) From Hwy. 536 Bridge (Memorial Hwy. Bridge) in Mt. Vernon to the Hwy. 9 Bridge in Sedro Woolley: Salmon: Effective immediately, through July 15, 2022:

(i) Immediately, through July 10:

(A) Daily limit 2 sockeye. Release all salmon other than sockeye.

(B) Night closure in effect.

(C) Selective gear rules are not in effect for salmon.

(ii) July 11 through July 12: Closed.

(iii) July 13 through July 15:

(A) Daily limit 2 sockeye. Release all salmon other than sockeye.

(B) Night closure in effect.

(C) Selective gear rules are not in effect for salmon.

(b) From Hwy. 9 Bridge in Sedro Woolley to the Dalles Bridge at Concrete: Effective immediately, through July 15, 2022:

(i) Salmon: Open (see exception in subsection (ii))

(A) Daily limit 2 sockeye. Release all salmon other than sockeye.

(B) Night closure in effect.

(C) Selective gear rules are not in effect for salmon.

(ii) All species: Closed waters June 29 through June 30, 2022.

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000H Freshwater exceptions to statewide rules—Puget Sound. (22-121)

WSR 22-15-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-132—Filed July 11, 2022, 8:51 a.m., effective July 25, 2022]

Effective Date of Rule: July 25, 2022.

Purpose: The purpose of this emergency rule is to open recreational salmon seasons in Catch Record Card Area 4.

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

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

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

Reasons for this Finding: This emergency rule is needed because sufficient quota remains to reopen Neah Bay to fishing for Chinook and coho in late July. Waters east of the Bonilla-Tatoosh line will remain closed until August 1 to limit Chinook catch and help ensure that the fishery remains within its Chinook guideline for the remainder of the season. When the waters East of the Bonilla-Tatoosh line reopen, Chinook retention will not be allowed in that area, consistent with the preseason fishing plan.

This rule also maintains previously established recreational salmon seasons in Areas 1, 2, and 3.

These rules for in-state waters are consistent with federal salmon fishing regulations adopted by the National Marine Fisheries Service in response to actions taken by the Pacific Fishery Management Council to set salmon fishery harvest specifications and management measures; this action is intended to achieve regulatory consistency in federal and state waters for the ocean recreational salmon fishery, which operates in both areas.

There is insufficient time 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: July 8, 2022.

Kelly Susewind
Director

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

Effective July 25 through October 8, 2022 the provisions of WAC 220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

(1) **Catch Record Card Area 1:** Open immediately through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
- (b) Release wild coho.
- (c) Chinook minimum length 22 inches.
- (d) Coho minimum length 16 inches.

(2) **Catch Record Card Area 2:** Open immediately through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
- (b) Release wild coho.
- (c) Chinook minimum length 22 inches.
- (d) Coho minimum length 16 inches.

(e) Immediately through August 7, 2022 the Grays Harbor Control Zone is open. See WAC 220-306-040.

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

(a) Open immediately through September 30, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook.
- (ii) Release wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.
- (v) Release chum beginning August 1.

(b) Open October 5 through October 8, 2022 only in the area north of 47°50'00N. lat. and south of 48°00'00"N. lat.:

- (i) Daily limit 2 Chinook salmon only.
- (ii) Release all salmon except Chinook.
- (iii) Chinook minimum length 24 inches.

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

(a) Open July 25 through July 31, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook.
- (ii) Release wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.
- (v) Closed in waters east of the Bonilla-Tatoosh line.

(b) Open August 1 through September 30, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook
- (ii) Release chum and wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.

(v) Chinook retention prohibited in waters east of the Bonilla-Tatoosh line.

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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.

REPEALER

The following section of Washington Administrative Code is repealed, effective July 25, 2022:

WAC 220-313-07500I Pacific Ocean salmon—Seasons—Closed areas. (22-127)

WSR 22-15-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-133—Filed July 11, 2022, 3:25 p.m., effective July 13, 2022]

Effective Date of Rule: July 13, 2022.

Purpose: The purpose of this emergency rule is to close recreational salmon fishing in Marine Area 11.

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

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

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

Reasons for this Finding: Estimates of landed catch to date indicate that 58 percent of the harvest quota of 2,816 agreed to in this year's list of agreed fisheries has been landed. Feedback from Puget Sound Sports Fishing Advisory Group and other members of the public indicated a desire to preserve Chinook fishing opportunity for August. Therefore, the fishery is being closed until August 3 to preserve opportunity for later in the summer season.

This rule also maintains rules for Catch Record Card Areas 5, 6, 7, 9, 10, and 12, set by WSR 22-14-045, Order 22-118, filed June 27; and WSR 22-14-086, Order 22-130, filed July 1, 2022.

There is insufficient time to adopt permanent rules.

Date Adopted: July 11, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000Z Puget Sound salmon—Saltwater seasons and daily limits. Effective July 13 through July 31, 2022, the following provisions of WAC 220-313-060 regarding salmon seasons for the Puget Sound Catch Record Card Areas shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

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

(a) Effective July 14, 16, 18, 20, 22, 24, 26, 28, 30, 2022: (i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(b) Effective July 13, 15, 17, 19, 21, 23, 25, 27, 29, and 31, 2022: Closed

(2) **Catch Record Card Area 6:**

(a) Daily limit 2; up to 1 may be a Chinook.

(b) Release chum, wild Chinook and wild coho.

(c) Waters east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook: Release all Chinook.

(d) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock: Closed.

(e) Waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy, and then to the Port Williams Boat Ramp: Closed.

(3) **Catch Record Card Area 7:**

(a) July 13: Closed.

(b) July 14 through July 16:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(c) July 17 through July 31: Closed.

(d) Waters of Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7): Closed.

(e) Waters of Bellingham Bay described in WAC 220-313-020(1): Closed.

(4) **Catch Record Card Area 9:**

(a) July 13: Closed.

(b) July 14 through July 27: Open Thursdays through Saturdays of each week only:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(c) July 28 through July 31:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(d) Waters south of a line from Foulweather Bluff to Olele Point: Closed.

(5) **Catch Record Card Area 10:**

(a) July 13:

(i) Daily limit 2.

(ii) Release Chinook and chum.

(b) July 14 through July 31:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum and wild Chinook.

(c) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed.

(d) West Elliott Bay: Waters of Elliott Bay between a line from West Point to Alki Point and a line from Duwamish Head to Pier 91. Closed.

(e) East Elliot Bay: Waters of Elliott Bay between a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island (Duwamish Waterways): Salmon: Closed.

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

(i) Daily limit 3.

(ii) Release chum and wild Chinook.

(g) Free-flowing freshwaters downstream of the mouth at Gorst Creek, Blackjack Creek, Chico Creek, Curley Creek, and Grovers Creek: Closed.

(h) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier, open year-round:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum.

(i) Duwamish Waterway downstream from an east-west line projected through southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extend-

ing to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W):

- (i) Night closure and Anti-snagging rule in effect
- (ii) Only fish hooked inside the mouth may be retained.

(j) Free-flowing freshwaters downstream of the mouth at Gorst Creek, Blackjack Creek, Chico Creek, Curley Creek, Grovers Creek: Closed.

(6) **Catch Record Card Area 11:**

(a) Closed, except as listed in subsection (6)(b).

(b) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock:

- (i) Daily limit 2; up to 1 may be a Chinook.
- (ii) Release chum.

(7) **Catch Record Card Area 12:**

(a) Waters south of Ayock Point including waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodsport Salmon Hatchery:

- (i) Daily limit 4.
- (ii) Release chum and wild Chinook.

(iii) Within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodsport Salmon Hatchery: It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

(iv) Those waters of Hood Canal inshore of the 2 yellow buoy markers to the mouth of Finch Creek, waters within the channel created by Finch Creek on exposed tideland and fishing from any Hoodsport Hatchery structure are closed except to persons with disabilities who permanently use a wheelchair and who have a designated harvester card may fish from the ADA-access site at the Hoodsport Salmon Hatchery, as long as persons follow all applicable department rules.

(b) Waters north of Ayock Point: Closed

(c) Free-flowing freshwater is closed to all fishing downstream of the mouth of the Dewatto, Dosewallips, Duckabush, Hamma Hamma, and Skokomish rivers.

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REPEALER

The following section of Washington Administrative Code is repealed, effective July 13, 2022:

WAC 220-313-06000Y Puget Sound salmon—Saltwater seasons and daily limits. (22-130)

WSR 22-15-020

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed July 12, 2022, 4:16 a.m., effective July 12, 2022, 4:16 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-840-930 and 246-841-405, amending specific training requirements for nursing assistant registered (NARs) and home care aides (HCAs). These rules continue the initial emergency rules filed as WSR 22-07-046 on March 14, 2022. The nursing care quality assurance commission (commission) is refileing these emergency rules 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 for providing 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 refileing 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.

In the meantime, DSHS has filed emergency and permanent rules that outline the dates by which HCAs and NCAs must complete basic caregiver training based on hire and rehire dates. These dates may extend through September 30, 2023, or within 120 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later.

This emergency rule will be refiled every 120 days until such time that DSHS can resume its standard training schedule, after the end of the training waivers established by gubernatorial proclamation. 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 0, Repealed 0.

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

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

Date Adopted: July 11, 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, 18.88A.060 [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 22-15-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-134—Filed July 12, 2022, 10:44 a.m., effective July 12, 2022, 10:44 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to reopen recreational fisheries in a portion of the Skagit River.

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

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

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

Reasons for this Finding: This rule is necessary to reopen recreational fishing a portion of the Skagit River. Previously scheduled dates for the treaty fisheries have concluded and the closure to avoid gear conflicts between recreational and treaty fishers is no longer necessary.

This rule also maintains salmon seasons for the Skagit River and Cascade River that were originally set in WSR 22-13-004 on June 1, and WSR 22-13-073 on June 9.

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: July 12, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000J Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through July 15, 2022, the following provisions of WAC 220-312-040 regarding salmon seasons for the Cascade River, Nooksack River, North Fork, and Skagit River shall be modified during the dates and in locations listed and described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) **Cascade River** (Skagit Co.): From mouth to Rockport-Cascade Rd. Bridge: Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 4 of which up to 2 adults may be retained. Release all salmon other than hatchery Chinook.

(b) Night closure and Anti-snagging rule in effect.

(2) **Skagit River** (Skagit Co.): From Hwy. 536 Bridge (Memorial Hwy. Bridge) in Mt. Vernon to the Dalles Bridge at Concrete: Salmon: Effective immediately, through July 15, 2022:

(a) Daily limit 2 sockeye. Release all salmon other than sockeye.

(b) Night closure in effect.

(c) Selective gear rules are not in effect for salmon.

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REPEALER

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

WAC 220-312-04000I Freshwater exceptions to statewide rules—Puget Sound. (22-131)

WSR 22-15-031
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-135—Filed July 13, 2022, 3:11 p.m., effective July 13, 2022, 3:11 p.m.]

Effective Date of Rule: Immediately upon filing.

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

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000D; 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 Zone 6 treaty commercial gillnet fishery upstream of Bonneville Dam. This rule is consistent with actions of the Columbia River Compact on June 2, June 30 and July 13, 2022. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of non-treaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent regulations.

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

On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

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

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

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

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

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

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

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

Date Adopted: July 13, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000E 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 1F, 1G, 1H (Zone 6)

(a) Season: Immediately, through 11:59 PM July 31, 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 may not be sold, but 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 kept for subsistence purposes only.

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

(2) Open Areas: SMCRA 1E (area defined in tribal/state MOUs/MOAs)

(a) Season: Immediately, through 11:59 PM July 31, 2022. Only during days and times opened under tribal rule.

(b) Gear: Hook and line and/or platform gear identified in tribal rules.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish and carp may be sold or retained for subsistence. Sturgeon may not be retained in fisheries downstream of Bonneville Dam. Sales of fish are not authorized on COE property downstream of Bonneville Dam. Fish must be transported elsewhere for sale. Fish landed during the open periods are allowed to be sold after the period concludes.

(3) Open Areas: Wind River, Drano Lake, and Klickitat River.

(a) Season: Immediately, until further notice, and only during those days and hours when the areas are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

(b) Gear: Hoop Nets/Bag Nets, Dip Nets, and Rod and reel with hook and Line. Gillnets may only be used in Drano Lake.

(c) Allowable sales: Salmon (any species), steelhead, shad, carp, catfish, walleye, bass, and yellow perch. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence. Sales of fish are allowed after the open period concludes, as long as the fish were landed during the open period.

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

(a) Season:

(i) Immediately, through 6PM Friday, July 15, 2022

(ii) 6AM Monday July 18 through 6PM Thursday, July 21, 2022

(iii) 6AM Monday July 25 through 6PM Thursday, July 28, 2022

(b) Gear: Set and Drift Gill nets with no 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 may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools and may be 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 closed areas applicable to gill-net gear, except the Spring Creek Hatchery sanctuary is not in effect during the summer management period.

(5) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

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

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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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000D Columbia River salmon seasons above Bonneville Dam. (22-125)

WSR 22-15-033
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-136—Filed July 13, 2022, 5:11 p.m., effective July 14, 2022]

Effective Date of Rule: July 14, 2022.

Purpose: The purpose of this emergency rule is to open adult hatchery Chinook seasons in the lower Columbia River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000V; 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: The *U.S. v. Oregon* technical advisory committee (TAC) recently updated the 2022 summer Chinook in-season return to 82,300. At this updated run-size, there are additional summer Chinook allocation available for the mainstem Columbia River recreational fishery below Bonneville Dam.

The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action on June 30 and July 13, 2022. The general public welfare is protected with the immediate and limited duration opening of recreational salmon fishing. This limited harvest allows for public use of the resource as well as the maintenance of a sustainable fish population.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal Endangered Species Act (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.

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

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife

convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached. There is insufficient time to promulgate 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: July 13, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000W Freshwater exceptions to statewide rules—Columbia River. Effective July 14 through October 15, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Megler-Astoria Bridge to Chief Joseph Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From the Megler-Astoria Bridge upstream to 600 feet below the fish ladder at the new Bonneville Powerhouse: Salmon and steelhead:

Effective July 14 through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(2) From Bonneville Dam to The Dalles Dam: Salmon and steelhead:

Effective immediately, through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(3) From The Dalles Dam upstream to a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia River to a boundary sign on the Washington southern shore located approximately 200' above the fish ladder exit: Salmon and steelhead:

Effective June 16, 2022, until further notice: Closed to fishing for and retention of salmon and steelhead.

(4) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300' upstream of The Dalles Dam and Lock boat ramp projected easterly across the Columbia

River to a boundary sign on the Washington south shore located approximately 200' above the fish ladder exit upstream to Hwy. 395 Bridge at Pasco: Salmon and steelhead:

Effective immediately, through July 31, 2022: Daily limit 6. No more than 2 adults may be retained, of which up to 1 may be a hatchery steelhead. Release all salmon other than sockeye and hatchery Chinook. Release wild steelhead.

(5) From Columbia Point (approximately 1/3 mile downstream of I-182 Bridge) upstream to I-182 Bridge: Salmon:

(a) Effective immediately through July 15, 2022: Closed to angling from a floating device or by any method except hand-cast lines from the west shore (Richland side of the river).

(b) Effective immediately through July 15, 2022: Daily limit 6. No more than 3 adult salmon may be retained of which no more than 2 may be hatchery Chinook. Release wild adult Chinook.

(6) From I-182 Bridge upstream to Priest Rapids Dam: Salmon:

Effective immediately, through August 15, 2022: Daily limit 6. No more than 3 adult salmon may be retained of which no more than 2 may be hatchery Chinook. Release wild adult Chinook.

(7) From Priest Rapids Dam to boundary markers 400 feet downstream of the fish ladders at Rock Island Dam: Salmon:

Effective immediately, through August 31, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(8) From Rock Island Dam to Boundary 400 feet below the Wells Dam spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side): Salmon:

Effective immediately, through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(9) From Wells Dam to Hwy. 173 Bridge at Brewster: Salmon:

Effective July 16 through September 30, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(10) From Hwy. 173 Bridge at Brewster to the rock jetty at the upstream shoreline of Foster Creek (Douglas County side): Salmon:

Effective immediately, through October 15, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

[]

REPEALER

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

WAC 220-312-06000V Freshwater exceptions to statewide rules—Columbia. (22-122)

WSR 22-15-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-138—Filed July 14, 2022, 9:44 a.m., effective July 16, 2022]

Effective Date of Rule: July 16, 2022.

Purpose: The purpose of this emergency rule is to close salmon fishing in a portion of Catch Record Card Area 1 and modify Chinook daily limits in Catch Record Card Area 3.

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

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

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

Reasons for this Finding: This emergency rule is needed to extend season lengths in Areas 1 and 3. Chinook catches have been larger than expected and these measures are needed to reduce catch of Chinook so that sufficient Chinook quota remains to access coho salmon later in the season.

This rule also maintains previously established recreational salmon seasons in Areas 2 and 4.

These rules for in-state waters are consistent with federal salmon fishing regulations adopted by the National Marine Fisheries Service in response to actions taken by the Pacific Fishery Management Council to set salmon fishery harvest specifications and management measures; this action is intended to achieve regulatory consistency in federal and state waters for the ocean recreational salmon fishery, which operates in both areas.

There is insufficient time 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: July 14, 2022.

Kelly Susewind
Director

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

Effective July 16 through October 8, 2022 the provisions of WAC 220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

(1) **Catch Record Card Area 1:** Open immediately through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
- (b) Release wild coho.
- (c) Chinook minimum length 22 inches.
- (d) Coho minimum length 16 inches.
- (e) That portion of Area 1 north of 46°15'N and east of

124°08'40"W is closed to fishing for salmon.

(2) **Catch Record Card Area 2:** Open immediately through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook.
- (b) Release wild coho.
- (c) Chinook minimum length 22 inches.
- (d) Coho minimum length 16 inches.
- (e) Immediately through August 7, 2022 the Grays Harbor Control

Zone is open. See WAC 220-306-040.

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

(a) Open immediately through July 24, 2022:

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

(b) Open July 25 through September 30, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook
- (ii) Release wild coho.
- (iii) Release chum beginning August 1.
- (iv) Chinook minimum length 24 inches.
- (v) Coho minimum length 16 inches.

(c) Open October 5 through October 8, 2022 only in the area north of 47°50'00N. lat. and south of 48°00'00"N. lat.:

- (i) Daily limit 2 Chinook salmon only.
- (ii) Release all salmon except Chinook.
- (iii) Chinook minimum length 24 inches.

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

(a) Open July 25 through July 31, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook.
- (ii) Release wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.
- (v) Closed in waters east of the Bonilla-Tatoosh line.

(b) Open August 1 through September 30, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook
- (ii) Release chum and wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.

(v) Chinook retention prohibited in waters east of the Bonilla-Tatoosh line.

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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.

REPEALER

The following section of Washington Administrative Code is repealed, effective July 25, 2022:

WAC 220-313-07500J Pacific Ocean salmon—Seasons—Closed areas. (22-132)

WSR 22-15-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-137—Filed July 14, 2022, 11:49 a.m., effective July 15, 2022]

Effective Date of Rule: July 15, 2022.

Purpose: Additional regulations are needed to prevent wildfires on department lands during the current period of high fire danger. The new rules will help reduce the threat of wildfires on department lands and provide protection of human health, safety, and wildlife habitat.

Citation of Rules Affected by this Order: Amending WAC 220-500-030, 220-500-040, 220-500-110, and 220-500-140.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

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: An emergency rule is necessary to protect department lands from imminent risk of wildfire damage during a high fire danger period which is occurring currently and before permanent rules can be adopted. These additional prohibitions are needed immediately to protect humans, wildlife, and property.

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 4, Repealed 0.

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

Date Adopted: July 14, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-500-03000D Behavior and conduct. (1) Notwithstanding the provisions of WAC 220-500-030, effective July 15, 2022, until further notice, in wildlife areas and access sites in eastern Washington owned or controlled by the department, . Other provisions of WAC 220-500-030 not addressed herein remain in effect unless otherwise amended by emergency rule. It is unlawful to:

(a) Operate a chainsaw without a permit or approval from the director; or

(b) Weld or operate an acetylene torch or other open flame without a permit or approval from the director.

(2) A violation of this section is an infraction punishable under RCW 77.15.160 (5) (b).

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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 220-500-04000K Regulating public access. (1) Notwithstanding the provisions of WAC 220-500-040, effective July 15, 2022, until further notice, it is unlawful to operate a motor vehicle off developed roadways in wildlife areas and access sites owned or controlled by the department in eastern Washington. However, it is permissible to park in an area devoid of vegetation within 10 feet of the roadway, and to park overnight in developed campgrounds and at trailheads. All other provisions of WAC 220-500-040 not addressed herein remain in effect unless otherwise amended by emergency rule:

(2) A violation of this section is an infraction punishable under RCW 77.15.160 (5) (b).

[]

NEW SECTION

WAC 220-500-11000D Fires and campfires. (1) Notwithstanding the provisions of WAC 220-500-110, effective July 15, 2022, until further notice. Other provisions of WAC 220-500-110 not addressed herein remain in effect unless otherwise amended by emergency rule. It is unlawful to build, start, or maintain fires or campfires in wildlife areas and access sites owned or controlled by the department in eastern Washington without a permit or approval from the director. However, it is permissible to use personal camp stoves or lanterns fueled by liquid petroleum, liquid petroleum gas, or propane.

(2) Effective immediately until further notice, it is unlawful to smoke in wildlife areas and access sites owned or controlled by the department in eastern Washington, except in an enclosed vehicle.

(3) A violation of this section is an infraction punishable under RCW 77.15.160 (5) (b).

[]

NEW SECTION

WAC 220-500-14000D Firearms and target practicing. (1) Notwithstanding the provisions of WAC 220-500-140, effective July 15, 2022, until further notice. Other provisions of WAC 220-500-140 not addressed herein remain in effect unless otherwise amended by emergency

rule. It is unlawful to discharge firearms on department owned or controlled lands in eastern Washington unless engaged in lawful hunting.

(2) Unless otherwise provided, violation of any of the provisions of this section constitutes an infraction, pursuant to RCW 77.15.020 and 77.15.160.

[]

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.

WSR 22-15-049

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed July 15, 2022, 10:11 a.m., effective July 15, 2022, 10:11 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 22-07-063 filed on March 17, 2022. 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. The CR-101 was filed on December 27, 2021, under WSR 22-02-015. Permanent

rule-making progress 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: July 14, 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 con-

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

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

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

[]

NEW SECTION

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

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

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

[]

NEW SECTION

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

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]

NEW SECTION

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

[]

WSR 22-15-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-139—Filed July 15, 2022, 1:42 p.m., effective July 15, 2022, 1:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Purpose: The purpose of this emergency rule is to:

1. Open additional days of spot shrimp fishing in Marine Areas 7 West and 7 South from July 21 through 23.
2. Open an additional day of spot shrimp fishing in Marine Area 12 from 9 a.m. to 1 p.m. on July 20.
3. Maintain ongoing announced spot and nonspot shrimp seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000N; and amending WAC 220-330-070.

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

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

Reasons for this Finding: This emergency rule is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. There is sufficient recreational share to support a limited number of days in the marine areas listed in this section. In addition, this emergency regulation opens the Marine Area 4 (east of the Bonilla-Tatoosh line), 5, 6, and 7 West seasons one hour before sunrise to one hour after sunset, which is the default daily start and end time for those areas. This regulation maintains the recreational nonspot shrimp fisheries already open in Marine Areas 7 East, 8-1, 8-2, 9, 11, and 13. The nonspot shrimp fisheries have maximum depth restrictions specific to each area to limit capture and handling of spot shrimp. Spot shrimp must be immediately released unharmed during nonspot shrimp seasons. 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: July 15, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-07000P Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-330-070, effective immediately, until further notice it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open each day, from 1 hour before official sunrise to 1 hour after official sunset, until further notice for all shrimp species.

(2) Marine Area 6 (excluding the Discovery Bay Shrimp District): Open from 1 hour before official sunrise to 1 hour after official sunset on July 21 through 23 for all shrimp species.

(3) Marine Area 7 West: Open from 1 hour before official sunrise to 1 hour after official sunset on July 21 through 23 for all shrimp species.

(4) Marine Area 7 South: Open from 1 hour before official sunrise to 1 hour after official sunset on July 21 through July 23 for all shrimp species.

(5) Marine Area 7 East: Open through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

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

(7) Marine Area 9: Open through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(8) Marine Area 11: Open through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(9) Marine Area 12: Open July 20 from 9:00 a.m. through 1:00 p.m. for all shrimp species.

(10) Marine Area 13: Open through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

[]

REPEALER

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

WAC 220-330-07000N Shrimp—Areas and seasons. (22-128)

WSR 22-15-056
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 15, 2022, 3:19 p.m., effective September 1, 2022]

Effective Date of Rule: September 1, 2022.

Purpose: Add new sections to chapter 392-122 WAC to describe the compliance rules and calculations concerning provisions in SSHB 1664 (2022) and the 2022 supplemental budget (ESSB 5693) related to physical, social, and emotional support in schools. These changes are required to ensure that local education agencies receive an allocation for basic education that is in alignment with the state budget.

Citation of Rules Affected by this Order: New WAC 392-122-430, 392-122-435, 392-122-440, 392-122-445, 392-122-450, and 392-122-455.

Statutory Authority for Adoption: RCW 28A.150.260.

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 2022 supplemental budget (ESSB 5693) implements SSHB 1664 which provides increased funding allocations for physical, social, and emotional support through the prototypical school funding model beginning with the 2022-23 school year. Maximum allocations to local education agencies are subject to compliance rules as drafted by office of superintendent of public instruction (OSPI). These changes are required to ensure that local education agencies receive an allocation for basic education that is in alignment with the state budget. Without these rules, local education agencies could receive state basic education allocations in excess of what the RCW and state budget language allows.

OSPI began the regular rule-making process by filing a CR-101 Preproposal statement of inquiry on June 21, 2022, WSR 22-13-162.

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 6, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: July 15, 2022.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-3884.1

PHYSICAL, SOCIAL, AND EMOTIONAL SUPPORTNEW SECTION

WAC 392-122-430 Physical, social, and emotional support (PSES) staff—Apportionment of state moneys. (1) State moneys for PSES staff shall be allocated as provided in this chapter.

(2) PSES staff allocations based on the prototypical school formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for PSES staff will be based upon budgeted assumptions as provided in the F-203 revenue estimate from September through December for the year budgeted.

(3) School districts, charter schools, and tribal compact schools must input their estimated PSES staffing penalty units, if applicable, for purposes of funding from September through December.

(4) Enrollment will only include student full-time equivalent (FTE) enrolled in the general education program 01 as defined in RCW 28A.150.260.

(5) Funded ratios starting with January apportionment will be based on actual average annual FTE enrollment reported in the P-223.

(6) School districts, charter schools, and tribal compact schools must meet the legislative compliance requirements of PSES staffing to generate the full allotment.

[]

NEW SECTION

WAC 392-122-435 Physical, social, and emotional support (PSES)—Student enrollment. (1) Grade level enrollment reported on the P-223 will be considered in the compliance calculations for January, March, and June.

(2) Only students in program 01 - Basic education will be included in the calculation. Enrollment in career and technical education, skill center, alternative learning experience, open doors, and running start programs will be excluded from the calculation.

[]

NEW SECTION

WAC 392-122-440 Physical, social, and emotional support (PSES)—Staff. (1) The superintendent of public instruction will include in the calculation of PSES compliance of those staff that are coded in programs 01 or 97 to one of the following duty root and activity code combinations:

- Duty root 39 - All activities - Orientation and mobility specialist;
 - Duty root 42 - All activities - Counselor;
 - Duty root 43 - All activities - Occupational therapist;
 - Duty root 44 - All activities - Social worker;
 - Duty root 45 - All activities - Speech, language pathology/ audio;
 - Duty root 46 - All activities - Psychologists;
 - Duty root 47 - All activities - Nurse;
 - Duty root 48 - All activities - Physical therapist;
 - Duty root 49 - All activities - Behavior therapist;
 - Duty root 64 - All activities - Contractor ESA;
 - Duty root 96 - Activity 24 - Family engagement coordinator;
 - Duty roots 91 - 99 - Activity 25 - Pupil management and safety;
 - Duty roots 91 - 99 - Activity 26 - Health/related services.
- (2) S-275 data as of the published apportionment cutoff dates in January, March, and June will be considered in the calculation.
- (3) Districts must prioritize funding allocated for PSES staff to staff who hold a valid ESA certificate appropriate for that role.
- (4) Staff coded to the above duty roots and activity codes in program 21 will be multiplied by the annual percentage of students receiving special education instruction used in the determination of 3121 revenue for inclusion in the compliance calculation.

[]

NEW SECTION

WAC 392-122-445 Physical, social, and emotional support (PSES) compliance—Contracted and supplemental staff. (1) Eligible staff working under contract and staff not required to be reported in the S-275 must be reported to the superintendent of public instruction prior to the published S-275 apportionment cutoff dates in January, March, and June to be considered.

(2) The full-time equivalency of supplemental staff reported must be reported as less than a 1.0 full-time equivalent (FTE).

(3) The full-time equivalency (FTE) of staff providing services under contract should be reported as determined in the contracting agreement or defined at the local school district level.

(4) Supplemental staff reporting should include decreases as well as increases in staff after October 1st and not reflected in report S-275. Decreases include terminations, retirements, unpaid leave, and reassignments of staff.

[]

NEW SECTION

WAC 392-122-450 Physical, social, and emotional support (PSES) compliance—Calculations. (1) Funded staffing units will be calculated using each grade level funding formula calculations.

(2) Staffing units will be combined at the district level and compared to the staffing units generated using the prototypical funding model.

(3) Penalty units are determined by subtracting the prototypical funded staff units from the district's actual funded units.

(4) Staff in the S-275 or the supplemental tool not assigned to a valid grade grouping will be included into the high school funding formula.

[]

NEW SECTION

WAC 392-122-455 Physical, social, and emotional support (PSES)—Penalty for noncompliance. (1) Penalty units identified by the calculations will be split between certificated instructional staff and classified staff based on the percentage that each contributes to the combined total of certificated instructional staff and classified staff in the physical, social, and emotional support staff for that school year at the state level.

(2) Any adjustments to those calculations will be made in January, March, and June apportionment payments.

[]

WSR 22-15-080

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed July 18, 2022, 12:44 p.m., effective July 26, 2022]

Effective Date of Rule: July 26, 2022.

Purpose: WAC 246-310-806 Kidney disease treatment facilities— Concurrent review cycles. The department of health (department) is adopting an emergency rule to amend WAC 246-310-806(1) as it relates to special and nonspecial circumstances 1 concurrent review cycle. The amendment extends deadlines for kidney disease treatment facility applicants who are submitting applications during concurrent review cycle 1. This adopted emergency rule will extend without change WSR 22-08-028 filed on March 28, 2022. This extension grants flexibility in meeting deadlines due to significant reporting errors in the new End Stage Renal Disease Quality Reporting System (EQRS) database. It was discovered that EQRS, a new Centers for Medicare and Medicaid Services (CMS) reporting system, is not able to correctly process dialysis patients receiving services in coronavirus disease (COVID-19) cohorted facilities and is incorrectly recording death dates or discharge dates. These errors have caused a significant number of counting errors within the reporting system. The department was unable to generate an accurate need methodology for the end stage renal disease (ESRD) providers as required by WAC 246-310-812 due to the incorrect data.

This emergency rule adopts the waived application deadlines for the special and nonspecial circumstances 1 concurrent review cycle. This change allows the dialysis providers to work within EQRS to correct this data and allowed the department to receive reliable data to formulate a reliable need methodology. This emergency rule extension will complete the special and nonspecial circumstances 1 concurrent review cycle.

Citation of Rules Affected by this Order: Amending WAC 246-310-806.

Statutory Authority for Adoption: RCW 70.38.135.

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 these existing rules is necessary for the preservation of public health, safety, and general welfare. Allowing an additional month for the kidney disease treatment facility concurrent review start cycle will allow time to receive and generate the data needed by applicants to appropriately fill health care needs in the appropriate areas. Ongoing work to review and revise the certificate of need rules could not be completed in time for this review cycle. This emergency rule has been in effect since March 28, 2022, and this filing will allow for the completion of the impacted cycle. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

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: July 18, 2022.

Kristin Peterson, JD
Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

OTS-2252.1

AMENDATORY SECTION (Amending WSR 17-04-062, filed 1/27/17, effective 1/1/18)

WAC 246-310-806 Kidney disease treatment facilities—Concurrent review cycles. The department will review kidney dialysis facility applications using the concurrent review cycles described in this section, unless the application was submitted as described in subsection (9) of this section. There are four concurrent review cycles each year.

(1) Applicants must submit applications for review according to the following table:

Concurrent Review Cycle	Letters of Intent Due	Application Submission Period			Department Action	Application Review Period		
		Receipt of Initial Application	End of Screening Period	Applicant Response		Public Comment Period (includes public hearing if requested)	Rebuttal Period	Exparte Period
Special Circumstances 1	First working day of (April) May of each year.	First working day of (May) June of each year.	(May) June 15 or the first working day thereafter.	(June) July 15 or the first working day thereafter.	(June) July 22 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins (June) July 23 or the first working day thereafter.	7-Day Rebuttal period. Applicant and affected party response to public comment.	15-Day Exparte period. Department evaluation and decision.

Concurrent Review Cycle	Letters of Intent Due	Application Submission Period			Department Action	Application Review Period		
		Receipt of Initial Application	End of Screening Period	Applicant Response		Public Comment Period (includes public hearing if requested)	Rebuttal Period	Exparte Period
Nonspecial Circumstance Cycle 1	First working day of ((May)) June of each year.	First working day of ((June)) July of each year.	Last working day of ((June)) July .	Last working day of ((July)) August .	((August)) September 5 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins ((August)) September 6 or the first working day thereafter.	30-Day Rebuttal period. Applicant and affected party response to public comment.	75-Day Exparte period. Department evaluation and decision.
Special Circumstances 2	First working day of October of each year.	First working day of November of each year.	November 15 or the first working day thereafter.	December 15 or the first working day thereafter.	December 22 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins December 23 or the first working day thereafter.	7-Day Rebuttal period. Applicant and affected party response to public comment.	15-Day Exparte period. Department evaluation and decision.
Nonspecial Circumstances Cycle 2	First working day of November of each year.	First working day of December of each year.	Last working day of December .	Last working day of January .	February 5 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins February 6 or the first working day thereafter.	30-Day Rebuttal period. Applicant and affected party response to public comment.	75-Day Exparte period. Department evaluation and decision.

(2) The department should complete a nonspecial circumstance concurrent review cycle within nine months, which begins the first day after letters of intent are due for that particular review cycle. The department should complete the regular review process within six months, which begins the first day after the letters of intent are due for that particular review cycle.

(3) The department will notify applicants fifteen days prior to the scheduled decision date if it is unable to meet the decision deadline on the applications. In that event, the department will establish and commit to a new decision date.

(4) When two or more applications are submitted for the same planning area, the department will first evaluate each application independently for meeting the applicable standards described in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240. If two or more applications independently meet those four standards, the department will apply the superiority criteria in WAC 246-310-827 to determine the superior application under WAC 246-310-240(1).

(5) An applicant receiving points for the purposes of the superiority criteria under WAC 246-310-827 (3)(e), (f), or (g) may only apply for station need in one planning area per review cycle.

(6) An applicant receiving points for purposes of the superiority criteria under WAC 246-310-827 (3)(e), (f), or (g) must operate the

newly awarded stations for a period of time long enough to have a full year of data reporting medicare cost report worksheets and a full year of data reporting the dialysis facility report prior to any future applications.

(7) The department will not accept new nonspecial circumstance applications for a planning area if there are any nonspecial circumstance applications for which the certificate of need program has not made a decision in that planning area filed under a previous concurrent review cycle. This restriction does not apply if the department has not made a decision on the pending applications within the review timelines of nine months for a concurrent review and six months for a regular review. This restriction also does not apply to special circumstance applications.

(8) The department may convert the review of a nonspecial circumstance application that was initially submitted under a concurrent review cycle to a regular review process if the department determines that the nonspecial circumstance application does not compete with another nonspecial circumstance application.

(9) Pending certificate of need applications. Kidney dialysis facility applications submitted prior to the effective date of these rules will be reviewed and action taken based on the rules that were in effect on the date the applications were received.

[Statutory Authority: RCW 70.38.135. WSR 17-04-062, § 246-310-806, filed 1/27/17, effective 1/1/18.]

WSR 22-15-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-140—Filed July 18, 2022, 4:56 p.m., effective July 18, 2022, 4:56 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open additional coastal and Puget Sound 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: This emergency rule is needed to open additional all-depth recreational halibut retention days in Marine Areas 1 through 10. Severe inclement weather on previously scheduled halibut days precluded or significantly reduced fishing effort. Substantial quota remains and adding dates in August and September supports progress towards attaining the Washington sport quota. The National Marine Fisheries Service has adopted regulations for Pacific halibut fisheries in 2022 including the additional season dates described here. This emergency rule revises state rules to conform to federal regulations. 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: July 18, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-314-03000K Halibut—Seasons—Daily and possession limits. Notwithstanding the provisions of WAC 220-314-040, and 220-314-010, effective immediately, through September 30, 2022, 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 August 19, 25, and 28; September 3, 4, and 23, 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., 124°15.88'W. long. (then connecting to the 40 fathom depth contour in Oregon):

Open immediately, through September 28, 2022; Mondays through Wednesdays only, except as described in subsection (1) of this rule.

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

Open August 19, 25, and 28; September 3, 4, and 23, 2022.

(4) Card Record Areas 3 and 4:

(a) Open August 11 through September 5, 2022; Thursdays through Mondays only.

(b) Open September 6 through September 30, seven days per week.

(5) Catch Record Card Area 5 through 10:

Open August 4 through September 30, 2022, seven days per week.

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

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WSR 22-15-101
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed July 19, 2022, 2:09 p.m., effective July 21, 2022]

Effective Date of Rule: July 21, 2022.

Purpose: Developmental disabilities administration (DDA) is amending WAC 388-101D-0030 to temporarily allow providers to hire a person without a high school diploma or GED.

Citation of Rules Affected by this Order: Amending WAC 388-101D-0030.

Statutory Authority for Adoption: RCW 71A.12.030 and 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 is the third emergency filing on this rule. This subsequent filing is necessary to keep the emergency rule in effect until DDA completes the permanent rule-making process. DDA is currently preparing the proposed rule text for a second public hearing. The initial CR-102 proposal was filed under WSR 22-07-077. DDA is adopting this rule on an emergency basis to align with the education qualifications for direct support professionals in chapters 388-112A WAC and 74.39A RCW, which do not require a GED or high school diploma. Immediate adoption allows providers to hire staff quickly, enabling providers to meet client health and safety needs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 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: July 19, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4900.3

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

WAC 388-101D-0030 Staffing requirements. (1) The ((service)) provider must ensure each ((staff meets the following minimum requirements)) of its employees:

((1) Have) (a) Has a high school diploma or GED equivalent, unless the ((employees were)) employee was hired before September 1, 1991, or is exempt under subsection (2) of this section;

((2) Be at least eighteen years of age) (b) Is age 18 or older when employed as a direct ((care staff, or at least twenty-one years of age)) support professional who provides support services to a client;

(c) Is age 21 or older when employed as an administrator;

((3) Have) (d) Has a clear understanding of job responsibilities and knowledge of individual support plans and client needs; and

((4) Passed) (e) Passes the department background check ((as)) required ((by)) under WAC 388-101-3250.

(2) The provider may hire a person without a high school diploma or GED if while working directly with clients the employee has access to another employee or a volunteer who:

(a) Has a high school diploma or GED; or

(b) Was hired before September 1, 1991.

(3) If the provider hires a person under subsection (2) of this section, the provider must have a written plan that states when and how the person must contact another employee for assistance.

[WSR 16-14-058, recodified as § 388-101D-0030, filed 6/30/16, effective 8/1/16. Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3200, filed 12/21/07, effective 2/1/08.]

WSR 22-15-108
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-141—Filed July 19, 2022, 4:51 p.m., effective July 21, 2022]

Effective Date of Rule: July 21, 2022.

Purpose: The purpose of this emergency rule is to modify weekly landing and possession limits for the coastal salmon troll fishery.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000H; and amending WAC 220-354-300.

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

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

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet. This regulation is necessary to both meet conservation limits and to provide fishing opportunity and its corresponding economic benefit. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans, and have been adopted for federal waters by the National Oceanic and Atmospheric Administration.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: July 19, 2022.

Kelly Susewind
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050 and WAC 220-354-010, effective immediately, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons and under conditions provided below:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00"W longitude and south of 48°23'00"N latitude open: Immediately, through September 30, 2022.

(2) Grays Harbor Control Zone, defined by a line drawn from the Westport Lighthouse (46°53'18"N. lat., 124°07'01"W. long.); thence to Buoy #2 (46°52'42"N. lat., 124°12'42"W. long.); thence to Buoy #3 (46°55'00"N. lat., 124°14'48"W. long.); thence to the Grays Harbor north jetty (46°55'36"N. lat., 124°10'51"W. long.), open: Immediately, through August 7, 2022.

(3) Landing and possession limit of 40 Chinook per vessel per landing week defined as Thursday through Wednesday, for the period July 7 - 20.

(4) Beginning July 21, landing and possession limit of 30 Chinook per vessel per landing week, defined as Thursday through Wednesday.

(5) Landing and possession limit of 150 marked coho per vessel per landing week, defined as Thursday through Wednesday.

(6) The Cape Flattery and Columbia River Control Zones are closed. The Mandatory Yelloweye Rockfish Conservation Area is closed.

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

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

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

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

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

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

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

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

(c) Vessels may not land fish east of the Megler-Astoria bridge.

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

(a) Vessels in possession of salmon south of the Queets River may not cross the Queets River line (47°31'42"N. lat.) without first noti-

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

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

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

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REPEALER

The following section Washington Administrative Code is repealed effective immediately:

WAC 220-354-30000H Coastal salmon troll seasons—
Commercial. (22-129)

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 22-15-109
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-142—Filed July 19, 2022, 4:58 p.m., effective July 21, 2022]

Effective Date of Rule: July 21, 2022.

Purpose: The purpose of this emergency rule is to open salmon seasons in Catch Record Card Area 7.

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

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

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

Reasons for this Finding: Catch estimates for the Catch Record Card Area 7 summer Chinook fishery indicate that through July 16, 2022, 44 percent of the harvest quota (800 of 1,800) has been reached, as well as 17 percent of unmarked encounters (690 of 3,991) and 9 percent of sublegal encounters (230 of 2,573). Sufficient quota remains for additional days of fishing to be added to the 2022 summer Chinook season.

This rule also maintains rules for Catch Record Card Areas 5, 6, 9, 10, 11, and 12, set by WSR 22-14-045, Order 22-118, filed June 27; WSR 22-14-086, Order 22-130, filed July 1; and WSR 22-15-019, Order 22-133, filed July 11, 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: July 19, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000A Puget Sound salmon—Saltwater seasons and daily limits. Effective July 21 through July 31, 2022, the following provisions of WAC 220-313-060 regarding salmon seasons for the Puget Sound Catch Record Card Areas shall be modified as described herein.

All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

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

(a) Effective July 22, 24, 26, 28, 30, 2022:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(b) Effective July 21, 23, 25, 27, 29, and 31, 2022: Closed

(2) **Catch Record Card Area 6:**

(a) Daily limit 2; up to 1 may be a Chinook.

(b) Release chum, wild Chinook and wild coho.

(c) Waters east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook: Release all Chinook.

(d) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock: Closed.

(e) Waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy, and then to the Port Williams Boat Ramp: Closed.

(3) **Catch Record Card Area 7:**

(a) July 21 through July 23:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(b) July 24 through July 31: Closed.

(c) Waters of Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7): Closed.

(d) Waters of Bellingham Bay described in WAC 220-313-020(1): Closed.

(4) **Catch Record Card Area 9:**

(a) Immediately, through July 27: Open Thursdays through Saturdays of each week only:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(b) July 28 through July 31:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum, wild Chinook and wild coho.

(c) Waters south of a line from Foulweather Bluff to Olele Point: Closed.

(5) **Catch Record Card Area 10:**

(a) Immediately, through July 31:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum and wild Chinook.

(b) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed.

(c) West Elliott Bay: Waters of Elliott Bay between a line from West Point to Alki Point and a line from Duwamish Head to Pier 91. Closed.

(d) East Elliot Bay: Waters of Elliott Bay between a line from Duwamish Head to Pier 91 up to the mouth of the Duwamish River including Harbor Island (Duwamish Waterways): Salmon: Closed.

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

(i) Daily limit 3.

(ii) Release chum and wild Chinook.

(f) Free-flowing freshwaters downstream of the mouth at Gorst Creek, Blackjack Creek, Chico Creek, Curley Creek, and Grovers Creek: Closed.

(g) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Watterman Pier, Bremerton Boardwalk, and Illahee State Park Pier, open year-round:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum.

(h) Duwamish Waterway downstream from an east-west line projected through southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W):

(i) Night closure and Anti-snagging rule in effect

(ii) Only fish hooked inside the mouth may be retained.

(i) Free-flowing freshwaters downstream of the mouth at Gorst Creek, Blackjack Creek, Chico Creek, Curley Creek, Grovers Creek: Closed.

(6) Catch Record Card Area 11:

(a) Closed, except as listed in subsection (6) (b).

(b) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock:

(i) Daily limit 2; up to 1 may be a Chinook.

(ii) Release chum.

(7) Catch Record Card Area 12:

(a) Waters south of Ayock Point including waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodspport Salmon Hatchery:

(i) Daily limit 4.

(ii) Release chum and wild Chinook.

(iii) Within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodspport Salmon Hatchery: It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

(iv) Those waters of Hood Canal inshore of the 2 yellow buoy markers to the mouth of Finch Creek, waters within the channel created by Finch Creek on exposed tideland and fishing from any Hoodspport Hatchery structure are closed except to persons with disabilities who permanently use a wheelchair and who have a designated harvester card may fish from the ADA-access site at the Hoodspport Salmon Hatchery, as long as persons follow all applicable department rules.

(b) Waters north of Ayock Point: Closed

(c) Free-flowing freshwater is closed to all fishing downstream of the mouth of the Dewatto, Dosewallips, Duckabush, Hamma Hamma, and Skokomish rivers.

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REPEALER

The following section of Washington Administrative Code is repealed, effective July 21, 2022:

WAC 220-313-06000Z Puget Sound salmon—Saltwater seasons and daily limits. (22-133)