

WSR 22-21-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-228—Filed October 5, 2022, 12:05 p.m., effective October 8, 2022]

Effective Date of Rule: October 8, 2022.

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

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

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

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, and 4 (Long Beach, Twin Harbors, and Copalis beaches) for recreational harvest. Washington department of health has certified clams from these razor clam areas to be safe for human consumption. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 5, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 p.m. October 8 through 11:59 p.m. October 14, 2022, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during afternoon and evening tides on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	October 8 through October 14	From 12:01 p.m. to 11:59 p.m.
Area 2	Closed	Closed
Area 3	October 8 through October 14	From 12:01 p.m. to 11:59 p.m.
Area 4	October 9, 11, 13	From 12:01 p.m. to 11:59 p.m.
Area 5	Closed	Closed
Area 6	Closed	Closed
Area 7	Closed	Closed

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

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REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 15, 2022:

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

WSR 22-21-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-227—Filed October 5, 2022, 4:34 p.m., effective October 5, 2022, 4:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule will allow nontreaty commercial fishing opportunities in the Columbia River while protecting fish listed as threatened or endangered under the Endangered Species Act (ESA). This rule implements federal court orders governing Washington's relationship with treaty Indian tribes, federal law governing Washington's relationship with Oregon, and Washington fish and wildlife commission policy guidance for Columbia River fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-358-03000Q; and amending WAC 220-358-030.

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

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

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

Reasons for this Finding: The Columbia River technical advisory committee has lowered the upriver bright fall Chinook projection to 267,000 fish. Nontreaty Chinook directed fisheries are being reduced to stay within the allowable limits set by upriver bright fall Chinook harvest sharing agreement and ESA impact limits.

This rule sets commercial Columbia River Salmon Management and Catch Reporting Areas 1D and 1E gillnet fisheries. Impacts to ESA-listed stocks are available for the nontreaty commercial fishers to access harvest of abundant non-ESA-listed stocks. Guidance in both states allocates ESA impacts for the most constraining fall Chinook stock as no more than 70 percent to recreational fisheries and no less than 30 percent to commercial fisheries. The fishery is consistent with the *United States v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with the compact actions of July 27, September 13, 21, and 28, and October 5, 2022. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to promulgate permanent rules.

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 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 *United States 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.

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: October 5, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-358-03000S Columbia River seasons below Bonneville.

Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-335-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

(1) Mainstem:

(a)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 6	Sunday, Wednesday (nights)	7:00 pm - 7:00 am	12 hrs

(i) **Areas:** 1D-1E (Zones 4-5). The deadline at the downstream end of Area 1D (Zone 4) shall be defined as a straight line projected from

the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries: Washougal and Sandy Rivers

(ii) **Gear:** Drift gillnets only. 8-inch minimum mesh size restriction.

(iii) **Multiple net rule:**

(A) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(iv) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required

(v) **Allowable Sales:** Salmon (except Chum), shad, and white sturgeon. A maximum of six white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). This white sturgeon possession and sales limit applies to mainstem fisheries only.

(vi) **24-hour quick reporting** required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

(b)

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 27	Mondays, Tuesdays, Wednesdays, Thursdays	4:00 am - 10:00 pm	18 hrs
Immediately - October 28	Fridays	4:00 am - 6:00 pm	14 hrs

(i) **Area:** SMCRA 1A, 1B, and 1C. Upper deadline defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore. Sanctuaries include Elokomin-A, Cowlitz River, Kalama-A and Lewis-A.

(ii) **Gear:** Drift nets only. Maximum mesh size is 3.75 inches. Un-slackened, single-wall, multi-filament floater nets only. Monofilament nets are not allowed. Net length not to exceed 150 fathoms. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net. There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline. The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(iii) **Allowable Sales:** Salmon (except chum), shad, and white sturgeon; all coho must be adipose fin-clipped. A maximum of six white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). This white sturgeon possession and sales limit applies to mainstem fisheries only.

(iv) **Regulations:** Regulations typically in place for mark-selective commercial fisheries are in effect, including but not limited to: net length, use of recovery boxes, limited soak times, red corks, tangle-net certification, etc.

(v) **Soak times,** defined as the time elapsed from when the first of the net web is deployed into the water until the web is fully retrieved from the water, must not exceed 30 minutes.

(vi) **Recovery Box:** Each boat will be required to have on board two operable recovery boxes or one box with two chambers that meet the flow and size requirements standard for the winter/spring season. Each box and chamber and associated pump shall be operating during any time that the net is being retrieved or picked. All non-legal fish must be released immediately unharmed to the river or placed into an operating recovery box. All non-legal salmon and all steelhead that are bleeding, lethargic or appear lifeless must be placed in the recovery box prior to being released. All fish placed in recovery boxes must be released to the river prior to landing or docking.

(vii) **Measuring mesh size:** Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact

(viii) **Live Capture workshop:** Only licensed Columbia River commercial fishers that have completed the required state-sponsored workshop concerning live capture commercial fishing techniques may participate in this fishery. At least one fisher on each boat must have live capture certification.

(ix) **Multiple net rule:** In effect beginning September 26, 2022: Nets not specifically authorized for use in this fishery may be on-board the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(x) **Lighted Buoys:** Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required

(xi) **24-hour** quick reporting required is for Washington wholesale dealers, per WAC 220-352-315. Oregon buyers are required to electronically submit fish receiving tickets pursuant to OAR 635-006-0210. Electronic fish tickets must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours.

(2) Tongue Point/South Channel Select Area:

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 28	Monday, Tuesday, Wednesday, Thursday (nights)	4:00 pm - 10:00 am	18 hrs

(a) **Area:**

(i) The Tongue Point Select Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the eastern shore of Tongue Point (midway between the red USCG light "2" at the tip of Tongue Point and the northern-most pier (#8) at the Tongue Point Job Corps facility) to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island, a line from a regula-

tory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island:

(A) If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

(B) If the marker on the Oregon shore is not in place, the upstream boundary is defined by a line projecting from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on Lois Island.

(ii) The South Channel Area is defined as waters of the Columbia River bounded by a line from a regulatory marker on the Oregon shore at John Day Point projecting northeasterly to a regulatory marker on the southwest shore of Lois Island, and a line from a regulatory marker on Settler Point projecting northwesterly to the flashing red USCG light "10" then projecting westerly to the eastern tip of Burnside Island.

(b) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length of 250 fathoms. In the Tongue Point Select Area, the lead line weight may not exceed two pounds per any one fathom; however, unstored gillnets legal for use in South Channel may be onboard.

In the South Channel Select Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted. Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted_buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) **Allowable Sales:** Salmon (except Chum), and shad. White sturgeon may not be sold or possessed. This white sturgeon possession and sales limit applies to all Select Area fisheries.

(3) Blind Slough/Knappa Slough Select Area:

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 28	Monday, Tuesday, Wednesday, Thursday (nights)	6:00 pm - 10:00 am	16 hrs

(a) **Area:** The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge. The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and boun-

ded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore. The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(b) **Gear:** Gillnets with a 6-inch maximum mesh size restriction. Maximum net length is 100 fathoms. There is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

Nets not specifically authorized for use may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) **Allowable Sales:** Salmon (except Chum), and shad. White sturgeon may not be sold or possessed. This white sturgeon possession and sales limit applies to all Select Area fisheries.

(4) Deep River Select Area:

Open Dates	Open Days	Open Time	Open Duration
Immediately - October 14	Monday, Tuesday, Wednesday, Thursday (nights)	6:00 pm - 9:00 am	15 hrs
October 17 - November 3	Monday, Wednesday (nights)	6:00 pm - 9:00 am	15 hrs
November 7 - November 24	Monday, Wednesday (nights)	5:00 pm - 8:00 am	15 hrs

(a) **Area:** The Deep River fishing area includes all waters from West Deep River Road Bridge at the town of Deep River downstream to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore.

(b) **Gear:** Gillnets with a maximum mesh size restriction of 6-inches. Maximum net length is 100 fathoms. No weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. No nets can be tied off to stationary structures. Nets may not fully cross the navigation channel. It is unlawful to operate in any river, stream or channel any gillnet gear longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. This emergency provision shall supersede the permanent regulation and all other regulations that conflict with it. Nets not specifically authorized for use may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets fished any time between official sunset and official sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(c) **Allowable Sales:** Salmon (except Chum), and shad. White sturgeon may not be sold or possessed. This white sturgeon possession and sales limit applies to all Select Area fisheries.

(5) 24-hour quick reporting is in effect for Washington buyers WAC 220-352-315. Permanent transportation rules in effect. Oregon buy-

ers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210.

(6) Multi-Net Rule: Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater (WAC 220-358-030(2)).

(7) Lighted Buoys: Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

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

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000R Columbia River seasons below
Bonnevillle. (22-221)

WSR 22-21-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-229—Filed October 5, 2022, 5:22 p.m., effective October 6, 2022]

Effective Date of Rule: October 6, 2022.

Purpose: The purpose of this emergency rule is to allow retention of hatchery steelhead in Drano Lake.

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

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

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

Reasons for this Finding: This emergency rule is necessary to open hatchery steelhead retention in Drano Lake.

Summer steelhead fisheries for 2022 were closed in Drano Lake through the North of Falcon rule-making process based on low preseason forecasts and the need to limit Endangered Species Act (ESA)-listed steelhead impacts in nontreaty fisheries. The estimated return of B-index summer steelhead, the primary stock currently passing Bonneville Dam, was recently increased from preseason forecasts. Mainstem Columbia River temperatures are also decreasing, likely reducing the number of ESA-listed summer steelhead occupying Drano Lake. Reopening hatchery steelhead retention at this time will provide added sport fishing opportunity for anglers, while also meeting conservation objectives for ESA-listed steelhead stocks.

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: October 5, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

**WAC 220-312-03000H Freshwater exceptions to statewide rules—
Southwest.** Effective October 6 through October 31, 2022, the provisions of WAC 220-312-030 regarding Drano Lake steelhead retention shall be modified during times and as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended by emergency rule:

Drano Lake (Skamania Co.): Downstream of markers on a point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 bridge:

Salmon and hatchery steelhead: Effective October 6 through October 31, 2022: Daily limit 6; of which up to 1 may be an adult salmon or hatchery steelhead.

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WSR 22-21-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-226—Filed October 5, 2022, 6:15 p.m., effective October 8, 2022]

Effective Date of Rule: October 8, 2022.

Purpose: The purpose of this emergency rule is to modify recreational salmon seasons for the Columbia River downstream of the Hwy. 395 Bridge at Pasco.

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

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

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

Reasons for this Finding: This rule is necessary to close Chinook retention in the Columbia River from Buoy 10 to the Hwy. 395 Bridge at Pasco beginning October 8, 2022.

The upriver bright fall Chinook runsize has been updated, resulting in a lower runsize projection. Chinook retention in the lower river is being closed to stay within the allowable upriver bright fall Chinook harvest sharing agreement, and within allowable Endangered Species Act (ESA) impact limits. These fisheries are opened under a joint-state agreement. Staff will continue to monitor progress of ongoing fisheries, with an expectation to manage within the allowable ESA impact rates, *United States v. Oregon* Management Agreement, and per Washington fish and wildlife Policy C-3630. This rule conforms Washington state rules with Oregon state rules and is consistent with compact action on September 13 and 28, and October 5, 2022.

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 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 *United States v. Oregon* Management Agreement. 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.

This rule carries forward Columbia River salmon seasons upstream of Priest Rapids dam previously set by WSR 22-20-005, filed September 21.

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: October 5, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000E Freshwater exceptions to statewide rules—Columbia River. Effective October 8, 2022, through December 31, 2022, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from Buoy 10 to the Hwy. 395 Bridge at Pasco and from Priest Rapids Dam 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 a true north and south line through Buoy 10 to a line drawn from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank (the Rocky Point/Tongue Point line):

(a) Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(b) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained, including no more than 2 hatchery steelhead. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(2) From the Rocky Point/Tongue Point line) to Beacon Rock:

(c) Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(d) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(3) From Beacon Rock to a line projected from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore:

Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(4) From a line projected from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse:

(a) Effective October 8 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(b) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(5) From Bonneville Dam to the Hood River Bridge:

(a) Effective October 8 through October 15, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.

(b) Effective October 16 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(c) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho and hatchery steelhead.

(6) From Hood River Bridge to the upstream side of the Interstate (Hwy. 197) Bridge and the Washington shore from the upstream side of the Interstate (Hwy. 197) Bridge to the navigation lock wall:

(a) Effective October 8 through October 15, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.

(b) Effective October 16 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho.

(c) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho and hatchery steelhead.

(7) From a line starting from a fishing boundary sign on the Washington north shore located approximately 1300 feet 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 feet above the fish ladder exit to the Hwy. 395 Bridge at Pasco:

(a) Effective October 8 through October 15, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho. Anti-snagging rule in effect. Only fish hooked inside the mouth may be retained.

(b) Effective October 16 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than coho.

(8) From Priest Rapids Dam to Rock Island Dam:

Effective immediately, through October 15, 2022: Salmon: Daily limit 6, including no more than 2 adult Chinook and no more than 2 coho.

(9) 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):

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

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

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

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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 sections of Washington Administrative Code are repealed, effective October 8, 2022:

WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia River. (22-222)

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 22-21-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 22-231—Filed October 6, 2022, 7:40 a.m., effective October 7, 2022]

Effective Date of Rule: October 7, 2022.

Purpose: Return this WAC section to permanent rules.

Citation of Rules Affected by this Order: Repealing WAC 220-500-14000D.

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: This emergency rule is no longer necessary.

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

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

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

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

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

Date Adopted: October 6, 2022.

Amy H. Windrope
for Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective October 7, 2022:

WAC 220-500-14000D Firearms and target practicing.
(22-137)

WSR 22-21-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-222—Filed October 6, 2022, 8:13 a.m., effective October 6, 2022, 8:13 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to modify recreational salmon seasons for the Columbia River downstream of Bonneville Dam.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000C; 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: Current in-season catch projections indicate that minimal Endangered Species Act (ESA)-listed lower river tule Chinook are expected to be handled downstream of Bonneville Dam and allows Chinook and hatchery coho retention effective immediately, with most areas reverting to permanent regulations. Staff will continue to monitor progress of ongoing fisheries, with an expectation to manage within the allowable ESA impact rates, *United States v. Oregon Management Agreement*, and per Washington Fish and Wildlife Policy C-3630. This rule conforms Washington state rules with Oregon state rules and is consistent with compact action on September 1, 13, and 28, 2022.

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 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 *United States v. Oregon Management Agreement*. 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.

This rule also carries forward Columbia River salmon seasons previously set by WSR 22-20-005, filed September 21.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 29, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia River. Effective immediately, until further notice, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from the Rocky Point/Tongue Point line to the west end of Puget Island and from Priest Rapids Dam 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 a line drawn from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank (the Rocky Point/Tongue Point line) upstream to a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank:

(a) Effective immediately, through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained, including no more than 1 Chinook. Release all salmon and steelhead other than Chinook and hatchery coho.

(b) Effective November 1 through December 31, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained, including no more than 1 Chinook. Release all salmon and steelhead other than Chinook, hatchery coho and hatchery steelhead.

(2) From Priest Rapids Dam to Rock Island Dam:

Effective immediately, through October 15, 2022: Salmon: Daily limit 6, including no more than 2 adult Chinook and no more than 2 coho.

(3) 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):

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

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

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

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REPEALER

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

WAC 220-312-06000C Freshwater exceptions to statewide rules—Columbia River. (22-197)

WSR 22-21-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-230—Filed October 6, 2022, 2:48 p.m., effective October 8, 2022]

Effective Date of Rule: October 8, 2022.

Purpose: The purpose of this emergency rule is to close recreational fishing seasons within coastal streams and tributaries listed within this rule and require release of wild coho in Willapa [Bay] system areas that remain open for salmon retention.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

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

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

Reasons for this Finding: This rule is necessary to close recreational fishing in most coastal streams and tributaries and to require release of wild coho in areas that remain open for salmon within the Willapa Bay system.

These closures are necessary to protect salmon returning to coastal rivers. Fishery managers are observing higher than expected harvest rates due to low flows. Fishing will reopen when flows increase or stock assessment information suggests that salmon have resumed their upstream migration.

Mark selective fisheries are necessary in areas where salmon seasons remain open within the Willapa Bay system to ensure that wild coho escapement objectives will be met.

This conservation measure follows regulation changes by comanagers for their respective fisheries. The National Park Service has closed their corresponding fisheries in associated waterbodies.

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: October 6, 2022.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION**WAC 220-312-02000U Freshwater exceptions to statewide rules—**

Coast. Effective October 8, 2022, until further notice, all recreational fishing seasons for waters listed, including *all tributaries* to areas described in section (1) are closed, mainstem waters of the lower Chehalis, Naselle, North, and Willapa rivers described in section (2) will remain open but require release of wild coho. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

- (1) **All species: Closed Waters:** (*Includes all tributaries to areas listed herein:*)
- (a) **Bear River (Pacific Co.)**
 - (b) **Bear Creek (Clallam Co.)** (Bogachiel Tributary)
 - (c) **Bear Creek (Clallam Co.)** (Sol Duc Tributary)
 - (d) **Beaver Creek (Clallam Co.)**
 - (e) **Big River (Clallam Co.)**, outside of Olympic National Park.
 - (f) **Black River (Grays Harbor/Thurston Co.)**
 - (g) **Bogachiel River (Clallam Co.)**, from the mouth to Olympic National Park boundary.
 - (h) **Calawah River, (Clallam Co.)**, including the North and South Forks, from the mouth upstream to the Olympic National Park boundary.
 - (i) **Cedar Creek (Jefferson Co.)**, outside of Olympic National Park
 - (j) **Chehalis River (Grays Harbor Co.)**, mainstem from Fuller Bridge upstream, including all forks and tributaries from the mouth (Hwy. 101 Bridge in Aberdeen) upstream.
 - (k) **Clearwater River (Jefferson Co.)**, from the mouth to Snahapish River.
 - (l) **Cloquallum Creek (Grays Harbor/Mason Co.)**
 - (m) **Copalis River (Grays Harbor Co.)**
 - (n) **Dickey River (Clallam Co.)** from the Olympic National Park boundary upstream including East and West forks.
 - (o) **Elk River (Grays Harbor Co.)**
 - (p) **Fork Creek (Pacific Co.)**
 - (q) **Goodman Creek (Jefferson Co.)**, outside of Olympic National Park boundary.
 - (r) **Hoh River (Jefferson Co.)**, from Olympic National Park boundary upstream to Olympic National Park boundary below mouth of South Fork Hoh River.
 - (s) **Hoh River, South Fork (Jefferson Co.)**, outside of Olympic National Park boundary.
 - (t) **Hoquiam River including West and East forks (Grays Harbor Co.)**
 - (u) **Humptulips River including all forks (Grays Harbor Co.)**
 - (v) **Joe Creek (Grays Harbor Co.)**
 - (w) **Johns River (Grays Harbor Co.)**
 - (x) **Kalaloch Creek (Jefferson Co.)** outside Olympic National Park boundary.
 - (y) **Moclips River (Grays Harbor Co)**
 - (z) **Mosquito Creek (Jefferson Co.)** from Olympic National Park boundary upstream.
 - (aa) **Naselle River (Pacific Co.):** Mainstem from Hwy. 4 upstream, including all tributaries from the mouth (Hwy. 101 Bridge) upstream.
 - (bb) **Naselle River South Fork (Pacific Co.)**
 - (cc) **Nemah River, Middle and South forks (Pacific Co.)**
 - (dd) **Newaukum River, including all forks (Lewis Co.)**

(ee) **Niawiakum River (Pacific Co.)**

(ff) **North River (Pacific Co.)**, mainstem from Lower Salmon Creek upstream, including all tributaries from the mouth (Hwy. 105 Bridge) upstream.

(gg) **Ozette Lake Tributaries (Clallam Co.)**, outside of Olympic National Park

(hh) **Palix River (Pacific Co.)**

(ii) **Quillayute River (Clallam Co.)**, from Olympic National Park boundary upstream to confluence of the Sol Duc and Bogachiel rivers.

(jj) **Quinault River, Upper (Grays Harbor/Jefferson Co.)**, from the mouth at upper end of Quinault Lake upstream to Olympic National Park boundary.

(kk) **Salmon Creek (Pacific Co.)**

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

(mm) **Satsop River (Grays Harbor Co.)**, including all forks.

(nn) **Sitkum River (Clallam Co.)**, from the mouth upstream.

(oo) **Skookumchuck River (Lewis/Thurston Co.)**

(pp) **Smith Creek (Pacific Co.)**

(qq) **Sol Duc River (Clallam Co.)**, from mouth upstream to the National Park Boundary.

(rr) **Sooes River (Tsoo-Yess River) (Clallam Co.)**, outside of the Makah Indian Reservation.

(ss) **Thunder Creek (Clallam Co.)**

(tt) **Van Winkle Creek (Grays Harbor Co.)**

(uu) **Willapa River (Pacific Co.)**, mainstem from the second bridge on Camp One Road upstream, including all tributaries from the mouth (City of South Bend boat launch) upstream.

(vv) **Willapa River South Fork (Pacific Co.)**

(ww) **Wishkah River (Grays Harbor Co.)**, from the mouth to 200' below the weir at the Wishkah Rearing Ponds and from 150' upstream to 150' downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary).

(xx) **Wynoochee River (Grays Harbor Co.)**

(2) **Salmon:**

(a) **Naselle River (Pacific Co.)**: Mainstem from the mouth (Hwy. 101 Bridge) to Hwy. 4 Bridge:

October 8 through December 31, 2022: Daily limit 6. Up to 2 adults may be retained. Release wild Chinook and wild coho.

(b) **North River (Pacific Co.)**, mainstem from the mouth (Hwy. 105 Bridge) to Lower Salmon Creek:

October 8 through December 31, 2022: Daily limit 6. Up to 2 adults may be retained. Release wild Chinook and wild coho.

(c) **Willapa River (Pacific Co.)**, mainstem from mouth (City of South Bend boat launch) to the second bridge on Camp One Road:

October 8 through January 31, 2023: Daily limit 6. Up to 2 adults may be retained. Release wild Chinook and wild coho.

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WSR 22-21-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-232—Filed October 6, 2022, 2:54 p.m., effective October 7, 2022]

Effective Date of Rule: October 7, 2022.

Purpose: The purpose of this emergency rule is to allow purse seine test fishery operations to be conducted by purse seine vessels F/V Chasina and F/V Harbor Gem in Puget Sound waters.

Citation of Rules Affected by this Order: Amending WAC 220-354-120.

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

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

Reasons for this Finding: This emergency rule is needed to allow the purse seine vessels, F/V Chasina and the F/V Harbor Gem, to conduct test fisheries in the waters of Puget Sound Salmon Management and Catch Reporting Areas 9 and 11. These test fisheries are necessary to collect GSI data and to inform the in-season update models; they have been agreed to by comanagers. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: October 6, 2022.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000J Puget Sound salmon—Purse seine—Open periods. Effective October 7 through November 30, 2022, the purse seine vessels F/V Chasina and the F/V Harbor Gem may carry out purse seine test fishery operations within Puget Sound Salmon Management and Catch Reporting Areas 9, and 11:

(1) Allowed fishing period is from November 7 through November 30, 2022.

(2) Area 11: Only chum salmon may be retained. All other salmon species must be released. WDFW staff must be onboard vessel while fishing.

(3) Area 9, non-retention fishery: all fish must be released. WDFW staff must be onboard vessel while fishing.

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

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**WSR 22-21-036
EMERGENCY RULES
DEPARTMENT OF**

CHILDREN, YOUTH, AND FAMILIES

[Filed October 7, 2022, 1:38 p.m., effective October 7, 2022, 1:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of children, youth, and families (DCYF) is repealing chapter 110-720 WAC and amending WAC 110-03-0020 and 110-03-0490 as a result of SHB 2050 which repeals parent pay in Washington state. Parent pay requires families to pay a percentage of their income to support their child's incarceration. Parent pay is a barrier to young people's successful transition out of the juvenile system and toward a second chance. The practice has inequitable racial outcomes, creates debt for families already struggling financially, and is an inefficient source of revenue for the state.

Citation of Rules Affected by this Order: Repealing WAC 110-720-0010, 110-720-0020, 110-720-0030, 110-720-0040 and 110-720-0050; and amending WAC 110-03-0020 and 110-03-0490.

Statutory Authority for Adoption: RCW 13.40.220.

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

Reasons for this Finding: SHB 2050 requires the repeal of RCW 13.40.220, which means DCYF must repeal chapter 110-720 WAC and amend WAC 110-03-0220 and 110-03-0490. Per the bill, the repeal of the rules needed to take effect June 9, 2022. This is the second emergency filing for this rule-making project. This emergency rule making was initially filed as WSR 22-13-071 on June 9, 2022. Since the first emergency filing, a public hearing was held and the permanent rules are being prepared for filing.

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 5.

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: October 7, 2022.

Brenda Villarreal
Rules Coordinator

OTS-3840.1

AMENDATORY SECTION (Amending WSR 20-02-031, filed 12/19/19, effective 1/19/20)

WAC 110-03-0020 Definitions. The following definitions apply to this chapter:

"Adjudicative proceeding" means a proceeding in which an opportunity for a hearing occurs before an administrative law judge (ALJ) concerning an administrative appeal of a DCYF action. Hearings and prehearing conferences are elements of adjudicative proceedings. An adjudicative proceeding may take place before the office of administrative hearings (OAH) and may also encompass review proceedings before a DCYF board of appeals (BOA) review judge.

"Administrative law judge" or "ALJ" means an impartial decision-maker who is an attorney and presides over an adjudicative proceeding resulting in an initial order, or resulting in a final order if no appeal of the initial order is properly made or if no further agency appeal is available.

"Adverse action" or "DCYF action" or "department action" means licensing, the enforcement of a statute, the application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

"Board of appeals" or "BOA" means the DCYF board of appeals, the entity to which an initial order of an ALJ may be appealed and considered by a review judge.

"Business days" means all days except for Saturdays, Sundays, federal legal holidays, and state legal holidays listed in RCW 1.16.050(1).

"Business hours" means 8:00 a.m. to 5:00 p.m. Monday through Friday, except state legal holidays.

"Calendar days" means all days including Saturdays, Sundays, federal legal holidays, and state legal holidays as listed in RCW 1.16.050(1).

"Case" means the entire adjudicative proceeding following the filing of a request for hearing with OAH.

"Continuance" means a change to a later date or time of a pre-hearing conference, hearing, or deadline for other action.

"DCYF" or "department" means the department of children, youth, and families.

"DCYF" or "department representative" means an employee of the department, an assistant attorney general, or special assistant attorney general authorized to represent DCYF in an administrative hearing.

"Documents" means papers, letters, writings, or other printed or written items.

"Ex parte contact" means a written or oral communication with an ALJ or review judge about something related to the hearing when all other parties are not present, as provided in RCW 34.05.455. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, or location or asking for directions to the hearing location.

"File" means delivering documents to OAH or the BOA at the location designated in this chapter or in a notice or order received from OAH or the BOA. The date of filing is the date documents are actually received during office hours by OAH or the BOA.

(a) Filing may be by:

(i) Personal service (hand delivery);

(ii) First class, registered, or certified mail;

(iii) Fax transmission, if the party also mails a copy of the document the same day;

(iv) Commercial delivery service; or

(v) Legal messenger service.

(b) A party cannot file documents by email, unless agreed in advance by OAH or BOA.

"Final order" means an order that is the final DCYF decision. An ALJ's initial order becomes a final order if the ALJ's initial order is not appealed to the BOA. If an ALJ's initial order is appealed to the BOA, the review judge's order is DCYF's final order. However, in the case of administrative proceedings related to juvenile parole revocation(~~(, findings of financial responsibility for reimbursement for the cost of support, treatment, and confinement of a juvenile,))~~) or subsidy overpayments to child care providers, the ALJ's decision is the final administrative decision.

"Good cause" means a substantial reason or legal justification for an action or for failing to appear, act, or respond to an action required under these rules. An ALJ or review judge may use the provisions of superior court civil rule 60 as a guide to determine what may be considered good cause.

"Hearing" means a meeting held before OAH or a review judge that gives an aggrieved party an opportunity to be heard, for the purpose of deciding issues of fact or law, in a dispute resulting from an appealable action taken against the party by DCYF.

"Initial order" is a decision made by an ALJ that may be reviewed by a review judge at any party's request.

"Judicial review" means a superior court's review of a final order.

"Limited-English-proficient person" or "LEP" means a person with limited ability to read, write, or speak English well enough to understand and communicate effectively.

"OAH" means the office of administrative hearings. This is a separate agency and not part of DCYF.

"Party" means DCYF or a person or entity named in a department action, or to whom a department action is directed.

"Prehearing conference" means a meeting scheduled and conducted by an ALJ in preparation for a hearing.

"Program" means a DCYF organizational unit and the services that it provides, including services provided by DCYF staff and through contracts with providers. Organizational units include, but are not limited to, DCYF offices and divisions.

"Reconsideration" means reexamination of a final order on request of a party because the party believes a mistake was made.

"Record" means the official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Representative" means the person selected by a party to represent that party in an administrative hearing. A representative may be an attorney or a lay representative who is not an attorney.

"Review" means the act of reevaluating an initial order by examining the record and issuing the DCYF final order as provided by RCW 34.05.464.

"Review judge" or "BOA review judge" means an attorney designated by the DCYF board of appeals to act as the reviewing officer and who is authorized to review ALJ initial orders and to prepare and enter the final order.

"Rule" means a state agency regulation found in the Washington Administrative Code (WAC).

"Serve" or "service" means a procedure by which notice of legal action is given to a party.

(a) Unless otherwise stated in law or rule, a party may serve another party by one of the following methods:

(i) Personal service (hand delivery);

(ii) First class, registered, or certified mail;

(iii) Fax, if the party also mails a copy of the document the same day;

(iv) Commercial delivery service;

(v) Legal messenger service; or

(vi) By any other method authorized by chapter 10-08 WAC.

(b) Service for each method, respectively, is complete when:

(i) Personal service is made;

(ii) Mail is properly stamped, addressed, and deposited in the United States mail;

(iii) Fax produces proof of transmission;

(iv) A parcel is delivered to a commercial delivery service with charges prepaid; or

(v) A parcel is delivered to a legal messenger service with charges prepaid.

(c) A party cannot serve documents by email, unless agreed in advance by the receiving party.

(d) Notice and orders served by mail by OAH or BOA are served on the date of mailing.

"Stay" means an order temporarily halting the effective date of a DCYF action.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0020, filed 12/19/19, effective 1/19/20.]

AMENDATORY SECTION (Amending WSR 20-02-031, filed 12/19/19, effective 1/19/20)

WAC 110-03-0490 Finality of the initial order. (1) Except as provided in subsection (3) of this section, the ALJ issues an initial order that becomes a final order:

(a) Twenty-one days after the date the initial order is mailed to the parties, when none of the parties has timely requested a review; or

(b) When a request for review is dismissed.

(2) The review judge issues the final order when a party timely requests a review of an initial order.

(3) The ALJ will issue a final order in administrative proceedings concerning juvenile parole revocation(~~(, findings of financial responsibility for reimbursement for the cost of support, treatment, and confinement of a juvenile,)~~) and subsidy overpayments to child care providers.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0490, filed 12/19/19, effective 1/19/20.]

OTS-3841.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 110-720-0010 Definitions.
- WAC 110-720-0020 Cost reimbursement schedule and ability to pay.
- WAC 110-720-0030 Modifications.
- WAC 110-720-0040 Hearing.
- WAC 110-720-0050 Powers of the administrative law judge.

WSR 22-21-038
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed October 7, 2022, 3:56 p.m., effective October 7, 2022, 3:56 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule-making order is to add language to existing WAC 392-136A-030 that clearly articulates the changes made to the shared leave program eligibility for school district staff to include the permitted use of shared leave as a result of the 2019 novel coronavirus.

Citation of Rules Affected by this Order: Amending WAC 392-136A-030.

Statutory Authority for Adoption: RCW 28A.400.380.

Other Authority: RCW 41.04.665.

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: Due to the global pandemic caused by COVID-19, RCW and WAC related to shared leave were amended by the legislature and the office of financial management. This emergency rule change includes language regarding the permitted use of shared leave for this purpose which was not previously amended to current WAC 392-136A-030 and is necessary for the preservation of public health, safety, and general welfare. The office of the superintendent of public instruction initiated regular rule making on June 21, 2022 (WSR 22-13-161).

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

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

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

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

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

Date Adopted: October 7, 2022.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-3887.1

AMENDATORY SECTION (Amending WSR 19-12-013, filed 5/24/19, effective 6/24/19)

WAC 392-136A-030 Eligibility. In the event a district implements a shared leave program, an employee shall be eligible to receive shared leave if the district has determined the employee meets the following conditions:

- (1) The employee:
 - (a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;
 - (b) Has been called to service in the uniformed services;
 - (c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;
 - (d) Is a victim of domestic violence, sexual assault, or stalking;
 - (e) Is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;
 - (f) Is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointment or treatment;
 - (g) Needs the time for parental leave; or
 - (h) Is sick or temporarily disabled because of pregnancy disability.
- (2) The condition(s) listed in subsection (1) of this section has caused, or is likely to cause, the employee to go on leave without pay or terminate district employment.
- (3) The employee's absence and the use of shared leave are justified.
- (4) The employee has exhausted or will shortly exhaust leave in accordance with WAC 392-136A-040. If the employee qualifies under subsection (1)(g) or (h) of this section, the employee is not required to deplete all of his or her annual leave or sick leave in accordance with WAC 392-136A-040.
- (5) The employee has abided by district policies regarding:
 - (a) Sick leave use if the employee qualifies under subsection (1)(a), (d), (g), or (h) of this section; or
 - (b) Military leave use if the employee qualifies under subsection (1)(b) of this section.
- (6) If the illness or injury is work-related, the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.
- (7) The employee's job is one in which annual leave, sick leave, military leave, or personal holiday can be used and accrued.
- (8) In accordance with RCW 41.04.665 (1)(f), and until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an employee may receive shared leave as a result of the 2019 novel coronavirus (COVID-19). The use of shared leave may be permitted if the employee, or a relative,

or household member is isolated or quarantined as recommended, requested, or ordered by a public health official or health care provider as a result of suspected or confirmed infection with or exposure to the 2019 novel coronavirus (COVID-19).

A school district may permit use of shared leave under this subsection without considering the requirements of subsections (1) through (5) of this section.

[Statutory Authority: RCW 28A.400.380. WSR 19-12-013, § 392-136A-030, filed 5/24/19, effective 6/24/19.]

WSR 22-21-040
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-233—Filed October 10, 2022, 8:26 a.m., effective October 15, 2022]

Effective Date of Rule: October 15, 2022.

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

WAC 220-340-45500M: (1) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2 East, 2 West, 3-1, 3-2, 3-3, and 3-4 at 8:00 a.m. on October 15, 2022. (2) Closes Port Angeles Harbor to commercial crab harvest due to public health decrees.

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

WAC 220-352-34000W: Requires compliance with quick reporting requirements in the event that a fish receiving ticket is not submitted or received by the department using an electronic fish ticket application.

Citation of Rules Affected by this Order: Amending WAC 220-340-455, 220-340-470, and 220-352-340.

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

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

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

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

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

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

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

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

Date Adopted: October 7, 2022.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

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

Commercial harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. On the season opening date harvest will be permitted starting at 8:00 a.m. Harvest on all other days is permitted starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	October 15, 2022, until further notice
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	October 15, 2022, until further notice
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	October 15, 2022, through February 1, 2023
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	October 15, 2022, through December 31, 2022
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	October 15, 2022, through February 15, 2023
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	October 15, 2022, through February 15, 2023
Subregion 3-1	October 15, 2022, until further notice
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	October 15, 2022, until further notice
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	October 15, 2022, until further notice
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	October 15, 2022, until further notice
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	October 15, 2022, until further notice
Subregion 3-4	October 15, 2022, until further notice

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NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-470:

Effective during the "Open period" listed in WAC 220-340-45500M above, it is unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	30
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	30
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	30
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	30
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	30
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	30

Geographical Management Unit (WAC 220-320-110)	Pot limit
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	30
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	30
Subregion 3-4	30

[]

NEW SECTION

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

Original receivers are required to submit Quick Reports unless they have submitted, and the department has received, a fish ticket from an electronic fish ticket reporting application within 24 hours of a landing.

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WSR 22-21-051
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-236—Filed October 11, 2022, 6:04 p.m., effective October 12, 2022]

Effective Date of Rule: October 12, 2022.

Purpose: Amend recreational fishing rules for the Skagit River.

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

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

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

Reasons for this Finding: This emergency rule is needed to open an area that was closed by emergency rule to avoid gear conflict. Tribal comanagers informed Washington department of fisheries that the fishery scheduled from Hwy 9 to Baker on October 12 will not occur, so the area closure is not necessary. 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: October 11, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000S Freshwater exceptions to statewide rules—Puget Sound. Effective immediately until further notice, the following provisions of WAC 220-312-040 regarding fishing seasons for the Cascade River and Skagit River shall be modified in locations listed, as described herein. All other provisions of WAC 220-312-040, not addressed herein, or unless otherwise amended, remain in effect:

(1) Cascade River (Skagit County); from mouth to Rockport-Cascade Rd. Bridge:

Effective immediately through October 31, 2022: All species: Bait is prohibited.

(2) Skagit River (Skagit County):

(a) From the mouth (a line projected from the terminus of the jetty with McGlinn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough) to Cascade River Rd. (Marblemount Bridge):

Effective immediately, until further notice: All species: Bait is prohibited.

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000Q Freshwater exceptions to statewide rules—Puget Sound. (22-210)

WSR 22-21-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-234—Filed October 12, 2022, 7:41 a.m., effective October 13, 2022]

Effective Date of Rule: October 13, 2022.

Purpose: The purpose of this emergency rule is to prevent the spread of disease (*Mycoplasma ovipneumoniae*) to bighorn sheep from domestic goats and sheep on department lands. A preproposal has been filed, WSR 21-18-031, and proposed permanent rule making is scheduled to be in place by winter of 2022.

Citation of Rules Affected by this Order: Amending WAC 220-500-040.

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: There is an existing and imminent threat on department land where pack goats are in close vicinity to wild bighorn sheep. The current threat of disease transmission could have dire impacts on state bighorn sheep populations during the upcoming recreational and hunting seasons. The Washington department of fish and wildlife has started permanent rule making to address this issue for the long term and will accept additional public input during the rule-making process.

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

Date Adopted: October 12, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-500-04000L Domestic goats and sheep on Washington department of fish and wildlife managed lands. (1) It is unlawful for any person to bring or lead domestic goats or sheep onto the following department wildlife area units or other WDFW-managed lands posted as

closed to domestic goats or sheep, unless otherwise permitted by the director to do so:

- (a) Colockum Wildlife Area: Colockum Unit;
 - (b) Wenas Wildlife Area: Wenas Unit;
 - (c) Chelan Wildlife Area: Chelan Butte, Swakane, and Entiat Units;
 - (d) LT Murray Wildlife Area: Quilomene and Whiskey Dick Units;
 - (e) Oak Creek Wildlife Area: Oak Creek and Rock Creek Units;
 - (f) Scotch Creek Wildlife Area: Scotch Creek, Charles and Mary Eder, Similkameen-Chopaka, and Tunk Valley Units;
 - (g) Sinlahekin Wildlife Area: Sinlahekin, Driscoll Island, McLoughlin Falls, and Carter Mountain Units;
 - (h) Asotin Creek Wildlife Area: Asotin Creek, Weatherly, and George Creek Units;
 - (i) Chief Joseph Wildlife Area: Chief Joseph, 4-0 Ranch, and Shumaker Units;
 - (j) Wooten Wildlife Area: Wooten Unit.
- (2) Goats or sheep that have tested positive for *Mycoplasma ovipneumoniae* or that are displaying signs of pneumonia or other illness will not be permitted on any WDFW-managed lands. Goats or sheep showing signs of pneumonia or other illness while on department lands must be removed within forty-eight hours.
- (3) If a goat or sheep becomes lost, the owner must make every effort to locate and recover it. If the goat or sheep cannot be recovered, the owner shall contact the department by telephone as soon as possible.

[]

WSR 22-21-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-235—Filed October 12, 2022, 10:03 a.m., effective October 12, 2022, 10:03 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open limited participation gillnet and purse seine fisheries in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11.

Citation of Rules Affected by this Order: Amending WAC 220-354-160 and 220-354-120.

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

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

Reasons for this Finding: This rule is necessary to add commercial purse seine and gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to allow limited commercial opportunity, but insufficient to support full fleet openings. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 12, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000K Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM until 6:00 PM, October 13, 2022 the following provisions of WAC 220-354-160 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as follows. All other provisions of WAC 220-351-210 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	10/13/2022

(a) For week 42 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 and 11 purse seine fishery:

- (i) Nick Babich - FV Secret Island
- (ii) William Burton FV Wisconsin
- (iii) Ralph Cole FV DC Cole
- (iv) Michael Galligan FV Sofia Lynn
- (v) John Curry FV Reality

(b) It is unlawful to land more than 2000 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

[]

NEW SECTION

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

Effective October 12, 2022, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as described below. All other provisions of WAC 220-354-120 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 10/12/2022

(a) For week 42 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 and 11 gill net fishery:

- (i) Loki Fish Co (Johnah Knutson) FV Loki
- (ii) Vince Hoiby FV Nettie B
- (iii) Kristian Warfel FV Toni M
- (iv) Shawn Hull FV Home Plate
- (v) Timothy Vardy FV C. Rae
- (vi) John McDonald FV Sanjo
- (vii) Michael Johnson FV Blue Boat
- (viii) Brad Sobjack FV Scavenger
- (ix) Cole Steffens Vessel WN0241NC

(b) It is unlawful to land more than 300 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

[]

WSR 22-21-069

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed October 13, 2022, 7:28 a.m., effective October 13, 2022, 7:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: [Amending] WAC 246-980-030, 246-980-040, and 246-980-065 in chapter 246-980 WAC, Home care aides, and adopting new WAC 246-980-011. Due to impacts from the coronavirus disease 2019 (COVID-19) pandemic, many uncertified home care aides are unable to obtain training and certification within statutory timeframes. Establishing alternate timeframes under ESHB 1120 will allow additional time for uncertified home care aides to complete certification requirements while training, testing, and certification capacity issues are being resolved.

These rules continue emergency rules initially filed on February 15, 2022, under WSR 22-05-079, and extended on June 15, 2022, under WSR 22-13-105. WAC 246-980-011, a new section developed in collaboration with the department of social and health services (DSHS), establishes alternate certification timeframes for individuals working toward certification as a home care aide.

Amendments to WAC 246-980-030, 246-980-040, and 246-980-065 create cross-references to new WAC 246-980-011.

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

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

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

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

During the COVID-19 pandemic, both training and testing were unavailable for several months in 2020 before resuming at limited capacity, creating a large backlog of uncertified home care aides.

Currently, thousands of uncertified home care aides are working under Governor's Proclamations 20-52 and 20-65 (waivers), which waive credentialing requirements. However, after the waivers are rescinded on October 27, 2022, uncertified aides will no longer be able to work and will still be unable to readily access the training and testing necessary for certification. Losing these workers would exacerbate the existing home care aide workforce shortage, forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings.

Establishing alternate time frames for home care aide certification, developed in collaboration with DSHS under ESHB 1120, will create a path to certification for uncertified home care aides and allow the backlog of workers waiting for testing, training, and certification to be processed.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 3, Repealed 0.

Date Adopted: October 13, 2022.

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

OTS-3558.4

NEW SECTION

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

Hired or rehired during the time frame of:	Shall be certified as a home care aide no later than:
August 17, 2019, to September 30, 2020	January 19, 2023
October 1, 2020, to April 30, 2021	April 21, 2023
May 1, 2021, to March 31, 2022	July 19, 2023
April 1, 2022, to September 30, 2022	November 19, 2023
October 1, 2022, to December 31, 2022, or the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later	December 19, 2023, or within 200 days after the end of the COVID-19 training waivers established by gubernatorial proclamation, whichever is later
After the end of the COVID-19 training waivers established by gubernatorial proclamation or beginning January 1, 2023, whichever is later	Standard training

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

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

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

[]

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

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

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

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

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

(a) The long-term care worker does not successfully complete all of the training required by RCW 74.39A.074(1) within (~~one hundred twenty~~) 120 calendar days from their date of hire;

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

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

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

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

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

(a) Successfully complete all training required by RCW 74.39A.074(1) within (~~one hundred twenty~~) 120 calendar days of the date of hire as a long-term care worker;

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

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

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

- (a) A completed application for both certification and the examination on forms provided by the department;
- (b) The exam fee set by the examination vendor and required fees under WAC 246-980-990; and
- (c) A certificate of completion from an approved training program indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.074. The certificate of completion or other official verification may also be submitted directly from the approved instructor or training program.
- (3) An applicant must submit to a state and federal background check as required by RCW 74.39A.056.
- (4) An applicant exempt from certification under WAC 246-980-025(2) who voluntarily chooses to be certified must provide documentation of qualification for the exemption. The applicant is not required to take the training required in subsection (1)(a) of this section or provide proof of training completion to the department.

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

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

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

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

- (a) A request for a provisional certification; and
- (b) Verification of his or her date of hire as a long-term care worker, as follows:
- (i) For individual providers, verification of the applicant's date of hire submitted directly by the department of social and health services; or
- (ii) For all other applicants, a form supplied by the department and completed by the employer who hired the applicant as a long-term care worker, verifying the applicant's date of hire.
- (2) A provisional certification will be issued only once.
- (3) Except as provided in WAC 246-980-011, a provisional certification will take effect ((two hundred)) 200 days from the applicant's date of hire as a long-term care worker, as defined in WAC 246-980-010(2).
- (4) Except as provided in WAC 246-980-011, a provisional certification will expire ((two hundred sixty)) 260 days from the applicant's date of hire as a long-term care worker. The applicant must stop work-

ing on the (~~two hundred sixtieth~~) 260th day of employment if the certification has not been granted for any reason.

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

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

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

WSR 22-21-070

EMERGENCY RULES

STATE BOARD OF HEALTH

[Filed October 13, 2022, 7:29 a.m., effective October 13, 2022, 7:29 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The state board of health (board) adopted an emergency rule regarding certification and registration of proprietary treatment products used in on-site sewage systems on June 8, 2022, and it was filed on June 15, 2022 (WSR 22-13-101). The emergency rule amended WAC 246-272A-0110 to allow manufacturers to make a written request to the department of health (department) to substitute components of a registered product's construction in cases of a demonstrated supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product.

This second emergency rule adopts without change the same amendments and will continue to allow manufacturers of registered proprietary treatment products to replace components of their products that are not available due to supply chain shortages or similar manufacturing disruptions with like components, as long as the components will not negatively impact performance, treatment, operation, or maintenance of the original registered product.

The underlying justification for the initial emergency rule still applies; without the emergency rule, the current rule would impede home sales when maintenance of these devices is noted on home inspections for property transfers because replacement parts are unavailable. New construction is likewise impacted, as many active or pending permits include on-site sewage systems using Salcor products. There are other manufacturers of disinfecting ultraviolet (UV) light systems that can be substituted into the proprietary treatment products that use Salcor products. In order to continue to protect the public's health, safety, and welfare, it is necessary to adopt a second emergency rule to allow the department to consider written requests from manufacturers of proprietary treatment products for substitutes to proprietary treatment product components so their systems will be able to function properly without negatively impacting treatment, operation, or maintenance during supply chain shortages. To date, three manufacturers have received department approval to substitute the Salcor 3G UV lamp with an alternate UV lamp.

In 2018, the board filed a CR-101, preproposal statement of inquiry (WSR 18-06-082), to initiate permanent rule making and update the on-site sewage system rules. That rule making is still underway and is expected to conclude in 2023. As directed by the board at the June 8, 2022, meeting, the emergency rule amendment will be considered for incorporation into the permanent rule making that is currently underway.

Citation of Rules Affected by this Order: Amending WAC 246-272A-0110.

Statutory Authority for Adoption: RCW 43.20.050(3).

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 com-

ment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The board finds that in order to protect the public's health, safety, and welfare, it is necessary to adopt the emergency rule to amend WAC 246-272A-0110 to allow the department to consider written requests from manufacturers of proprietary treatment products to substitute a proprietary treatment product component so their systems may continue to function properly without negatively impacting performance or diminishing the effect of the treatment, operation, or maintenance during supply chain shortages.

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: October 13, 2022.

Michelle A. Davis
Executive Director

OTS-3856.1

AMENDATORY SECTION (Amending WSR 05-15-119, filed 7/18/05, effective 9/15/05)

WAC 246-272A-0110 Proprietary treatment products—Certification and registration. (1) Manufacturers shall register their proprietary treatment products with the department before the local health officer may permit their use.

(2) To qualify for product registration, manufacturers desiring to sell or distribute proprietary treatment products in Washington state shall:

(a) Verify product performance through testing using the testing protocol established in Table I and register their product with the department using the process described in WAC 246-272-0120;

(b) Report test results of influent and effluent sampling obtained throughout the testing period (including normal and stress loading phases) for evaluation of constituent reduction according to Table II;

(c) Demonstrate product performance according to Table III. All (~~thirty-day~~) 30-day averages and geometric means obtained throughout the test period must meet the identified threshold values to qualify for registration at that threshold level; and

(d) For registration at levels A, B, and C verify bacteriological reduction according to WAC 246-272A-0130.

(3) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility accredited by ANSI:

(a) ANSI/NSF Standard 40—Residential Wastewater Treatment Systems;

(b) NSF Standard 41: Non-Liquid Saturated Treatment Systems;

(c) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation; or

(d) Protocol for bacteriological reduction described in WAC 246-272A-0130.

(4) Manufacturers verifying product performance through testing according to the following standards or protocols shall have product testing conducted by a testing facility meeting the requirements established by the Testing Organization and Verification Organization, consistent with the test protocol and plan:

(a) EPA/NSF—Protocol for the Verification of Wastewater Treatment Technologies; or

(b) EPA Environmental Technology Verification Program protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction.

(5) Treatment levels used in these rules are not intended to be applied as field compliance standards. Their intended use is for establishing treatment product performance in a product testing setting under established protocols by qualified testing entities.

(6) Manufacturers may make written request to the department to substitute components of a registered product's construction in cases of supply chain shortage or similar manufacturing disruptions that may impact installations, operation, or maintenance. The request must include information that demonstrates the substituted component will not negatively impact performance or diminish the effect of the treatment, operation, and maintenance of the original registered product.

TABLE I

Testing Requirements for Proprietary Treatment Products	
Treatment Component/ Sequence Category	Required Testing Protocol
Category 1 Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	ANSI/NSF 40—Residential Wastewater Treatment Systems (protocols dated between July 1996 and the effective date of these rules)
Category 2 Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E. (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	EPA/NSF Protocol for the Verification of Wastewater Treatment Technologies/ EPA Environmental Technology Verification (April 2001)

Testing Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Required Testing Protocol
Category 3 Black water component of residential sewage (such as composting and incinerating toilets).	NSF/ANSI Standard 41: Non-Liquid Saturated Treatment Systems (September 1999) NSF Protocol P157 Electrical Incinerating Toilets - Health and Sanitation (April 2000)
Total Nitrogen Reduction in Categories 1 & 2 (Above)	Protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction/EPA Environmental Technology Verification Program (November, 2000)

TABLE II

Test Results Reporting Requirements for Proprietary Treatment Products	
Treatment Component/Sequence Category	Testing Results Reported
Category 1 Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.	Report test results of influent and effluent sampling obtained throughout the testing period for evaluation of constituent reduction for the parameters: CBOD ₅ , and TSS: <input type="checkbox"/> Average <input type="checkbox"/> Standard Deviation <input type="checkbox"/> Minimum <input type="checkbox"/> Maximum <input type="checkbox"/> Median <input type="checkbox"/> Interquartile Range <input type="checkbox"/> 30-day Average (for each month) For bacteriological reduction performance, report fecal coliform test results of influent and effluent sampling by geometric mean from samples drawn within ((thirty-day) 30-day or monthly calendar periods, obtained from a minimum of three samples per week throughout the testing period. See WAC 246-272A-0130. Test report must also include the individual results of all samples drawn throughout the test period.
Category 2 Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E. (Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)	Report all individual test results and full test average values of influent and effluent sampling obtained throughout the testing period for: CBOD ₅ , TSS and O&G. Establish the treatment capacity of the product tested in pounds per day for CBOD ₅ .
Category 3 Black water component of residential sewage (such as composting and incinerating toilets).	Report test results on all required performance criteria according to the format prescribed in the NSF test protocol described in Table I.
Total Nitrogen Reduction in Categories 1 & 2 (Above)	Report test results on all required performance criteria according to the format prescribed in the test protocol described in Table I.

TABLE III

Product Performance Requirements for Proprietary Treatment Products						
Treatment Component/Sequence Category	Product Performance Requirements					
<p>Category 1 Designed to treat sewage with strength typical of a residential source when septic tank effluent is anticipated to be equal to or less than treatment level E.</p>	Treatment System Performance Testing Levels					
	Level	Parameters				
		CBOD₅	TSS	O&G	FC	TN
	A	10 mg/L	10 mg/L	—	200/100 ml	—
	B	15 mg/L	15 mg/L	—	1,000/100 ml	—
	C	25 mg/L	30 mg/L	—	50,000/100 ml	—
	D	25 mg/L	30 mg/L	—	—	—
	E	125 mg/L	80 mg/L	20 mg/L	—	—
	N	—	—	—	—	20 mg/L
<p>Values for Levels A - D are 30-day values (averages for CBOD₅, TSS, and geometric mean for FC.) All 30-day averages throughout the test period must meet these values in order to be registered at these levels. Values for Levels E and N are derived from full test averages.</p>						
<p>Category 2 Designed to treat high-strength sewage when septic tank effluent is anticipated to be greater than treatment level E.</p> <p>(Such as at restaurants, grocery stores, mini-marts, group homes, medical clinics, residences, etc.)</p>	<p>All of the following requirements must be met:</p> <p style="margin-left: 40px;">(1) All full test averages must meet Level E; and (2) Establish the treatment capacity of the product tested in pounds per day for CBOD₅.</p>					
<p>Category 3 Black water component of residential sewage (such as composting and incinerating toilets).</p>	<p>Test results must meet the performance requirements established in the NSF test protocol.</p>					
<p>Total Nitrogen Reduction in Categories 1 & 2 (Above)</p>	<p>Test results must establish product performance effluent quality meeting Level N, when presented as the full test average.</p>					

[Statutory Authority: RCW 43.20.050. WSR 05-15-119, § 246-272A-0110, filed 7/18/05, effective 9/15/05.]

WSR 22-21-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-239—Filed October 13, 2022, 2:28 p.m., effective October 16, 2022]

Effective Date of Rule: October 16, 2022.

Purpose: The purpose of this emergency rule is to close Dungeness River and Gray Wolf River recreational fisheries.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

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

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

Reasons for this Finding: This emergency rule is necessary to close Dungeness River and Gray Wolf River recreational fisheries. Unseasonably dry weather has resulted in extreme low water conditions in the Dungeness River system. This closure is necessary to protect fish that are unable to move upstream to their spawning grounds, as well as existing Chinook redds. Fishery comanagers will continue to monitor river conditions to help ensure spawning needs are met and reopen fishing when able. 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: October 13, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000V Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-020, effective October 16, 2022, until further notice, the waters of the Dungeness Gray Wolf rivers described herein are closed to fishing. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(1) **Dungeness River (Clallam Co.); from the mouth upstream:**
Closed waters.

(2) **Gray Wolf River (Clallam Co.); from the mouth upstream:**
Closed waters.

[]

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 22-21-088
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 14, 2022, 12:48 p.m., effective October 20, 2022]

Effective Date of Rule: October 20, 2022.

Purpose: The department is extending the amendment of the rules listed below. Because of the ongoing COVID-19 public health emergency, on January 18, 2022, home and community services (HCS) temporarily suspended conducting ongoing assessments for HCS clients living in adult family homes, assisted living facilities, and enhanced services facilities. This suspension allows HCS staff to focus on conducting assessments for patients staying in hospitals to facilitate their discharge to long-term care facilities and improve the current surge capacity in hospitals. This emergency rule suspends the regulatory requirement for these facilities to complete assessments for HCS clients while the HCS assessors are not available. The Centers for Medicare and Medicaid Services (CMS) approved this flexibility for medicaid beneficiaries needing specific long-term care services and supports whose assessments meet the requirements under 42 C.F.R. 441.720. The department filed a CR-101 under WSR 22-13-121 to begin the permanent rule-making process.

Citation of Rules Affected by this Order: Amending WAC 388-76-10350, 388-78A-2100, and 388-107-0080.

Statutory Authority for Adoption: RCW 18.20.090, 70.97.230, and 70.128.040(1).

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 was put in place at a time when many hospitals in this state were at or over capacity, leading them to redirect patients who were in need of emergency care and delay procedures that were necessary but nonemergent. This put the health of all residents of Washington at risk if they were not able to get the care they needed at their local hospital. By temporarily suspending assessment requirements for residents living in adult family homes, assisted living facilities, and enhanced services facilities, HCS was able to focus personnel resources on assessing patients in hospitals, which facilitated admissions to long-term care facilities and increased the bed availability in hospitals. HCS is continuing to use the extended timelines in this rule to address hospital capacity surges as they arise and to focus on significant change assessments.

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 3, Repealed 0.

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

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

Date Adopted: October 14, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4914.2

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10350 Assessment—Updates required. The adult family home must ensure each resident's assessment is reviewed and updated to document the resident's ongoing needs and preferences as follows:

(1) When there is a significant change in the resident's physical or mental condition;

(2) When the resident's negotiated care plan no longer reflects the resident's current status, needs, and preferences;

(3) At the resident's request or at the request of the resident's representative; or

(4) At least every (~~twelve~~) 12 months, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10350, filed 10/16/07, effective 1/1/08.]

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

WAC 388-78A-2100 On-going assessments. The assisted living facility must:

(1) Complete a full assessment addressing the elements set forth in WAC 388-78A-2090 for each resident at least annually, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency;

(2) Complete an assessment specifically focused on a resident's identified problems and related issues:

(a) Consistent with the resident's change of condition as specified in WAC 388-78A-2120;

(b) When the resident's negotiated service agreement no longer addresses the resident's current needs and preferences;

(c) When the resident has an injury requiring the intervention of a practitioner.

(3) Ensure the staff person performing the on-going assessments is qualified to perform them.

[Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2100, filed 6/18/13, effective 7/19/13. Statutory Authority: RCW 18.20.090. WSR 06-01-047, § 388-78A-2100, filed 12/15/05, effective 1/15/06. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-2100, filed 7/30/04, effective 9/1/04.]

AMENDATORY SECTION (Amending WSR 16-14-078, filed 7/1/16, effective 8/1/16)

WAC 388-107-0080 Ongoing comprehensive assessments. The enhanced services facility must:

(1) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070 ~~((r))~~ on the following timelines:

(a) Upon a significant change in the resident's condition; or
~~(b) ((or))~~ At least every 180 days if there is no significant change in condition, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

(2) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

(a) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

(b) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and

(c) When the resident has an injury requiring the intervention of a practitioner ~~((r))~~.

(3) Review each resident's needs to evaluate discharge or transfer options when the resident:

(a) No longer needs the level of behavioral support provided by the facility; or

(b) Expresses the desire to move to a different type of community based setting ~~((r))~~.

(4) Ensure that the person-centered service planning team discusses all available placement options; and

(5) Ensure the staff person performing the ongoing assessments is a qualified assessor.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0080, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0080, filed 9/12/14, effective 10/13/14.]

WSR 22-21-089
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-241—Filed October 14, 2022, 12:55 p.m., effective October 15, 2022]

Effective Date of Rule: October 15, 2022.

Purpose: The purpose of this emergency rule is to increase hatchery adult coho daily limits in portions of Cowlitz and Lewis rivers and to close all fishing in a portion of the Green River (Cowlitz County).

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000R; and amending WAC 220-312-030.

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

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

Reasons for this Finding: This emergency rule is necessary to increase hatchery adult coho daily limits in areas of the Cowlitz and Lewis rivers, and to close a portion of the Green River.

Coho salmon returns to Cowlitz and Lewis river hatcheries are projected to meet or exceed broodstock collection goals. Increased adult hatchery coho daily limits will provide additional fishing opportunities while still meeting program needs and upstream reintroduction goals.

The fishing closure in Green River (Cowlitz County) is necessary because broodstock collection at the North Toutle hatchery is lower than anticipated. Historically low water conditions in the Green River have reduced holding pools in the reach from the mouth to the hatchery creating conditions that limit fish movements and increase vulnerability to harvest. Closing fisheries in this reach until river conditions improve and salmon can reach the hatchery in adequate numbers will help meet broodstock collection goals.

Fishery managers will continue to monitor river conditions in Green River, as well as Chinook and coho returns to the Toutle Hatchery, to determine when fisheries may be reopened.

Washougal River rules are carried forward from WSR 22-29-062, filed September 29, 2022.

There is insufficient time to file permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: October 14, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

**WAC 220-312-03000T Freshwater exceptions to statewide rule—
Southwest.** Effective October 15, 2022, until further notice, the provisions of WAC 220-312-030 regarding Cowlitz River, Green River, Lewis River, and Washougal River fishing seasons shall be modified during times and as described below. All other provisions of WAC 220-312-030, not addressed herein, remain in effect unless otherwise amended by emergency rule:

(1) Cowlitz River (Cowlitz/Lewis Co.); from the mouth to 400 feet or posted markers below the Barrier Dam:

Effective October 15 through December 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained. Release all salmon other than hatchery coho.

(2) Green River (Cowlitz Co.); from the mouth to the Toutle Hatchery rack:

Effective October 15, 2022, until further notice: All species: Closed waters.

(3) Lewis River (Clark/Cowlitz Co.):

(a) From the mouth to Colvin Creek:

Effective October 15 through December 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained, including no more than 2 Chinook. Release all salmon other than Chinook and hatchery coho.

(b) From Colvin Creek to overhead power lines below Merwin Dam:

(i) Effective October 15 through October 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained, including no more than 2 Chinook. Release all salmon other than Chinook and hatchery coho.

(ii) Effective November 1 through December 15, 2022: All species: Closed

(iii) Effective December 16 through December 31, 2022: Salmon: Daily limit 6. Up to 4 adults may be retained, including no more than 2 Chinook. Release all salmon other than Chinook and hatchery coho.

(4) Washougal River (Clark Co.); from mouth (a line projected from the James River pumphouse across the Washougal River to the east end of the Hwy. 14 Bridge) to the bridge at Salmon Falls:

Effective immediately, until further notice: Salmon: Daily limit 6. Up to 3 adults may be retained. Release all salmon other than hatchery coho.

[]

REPEALER

The following section of Washington Administrative Code is repealed, effective October 15, 2022:

WAC 220-312-03000R Freshwater exceptions to statewide
rules—Southwest. (22-223)

WSR 22-21-090
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-240—Filed October 14, 2022, 1:03 p.m., effective October 14, 2022, 1:03 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Defines the Dungeness Bay Crustacean Special Management Area (CSMA) to all waters of Dungeness Bay west of the -123.1103° (123°6.6'W) longitude line.

Citation of Rules Affected by this Order: Amending WAC 220-320-120.

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

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

Reasons for this Finding: This emergency rule aligns the definition of the Dungeness Bay CSMA with the boundaries agreed-to annual management plans with applicable tribes and corrects a transposition of numbers recorded in the permanent rule. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in those management plans. 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: October 14, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-320-12000A Commercial crab fishery—Puget Sound Crustacean (crab and shrimp) Special Management Areas. Notwithstanding the provisions of WAC 220-320-120, effective immediately, until further notice, the waters of the Dungeness Bay Crustacean Special Management Area shall be as described herein. All other provisions of WAC

220-320-120 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Dungeness Bay CSMA is defined as: All waters of Dungeness Bay west of the -123.1103° ($123^{\circ}6.6'W$) longitude line (a true north/south line through the New Dungeness Lighthouse).

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WSR 22-21-092
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 17, 2022, 4:38 a.m., effective October 21, 2022]

Effective Date of Rule: October 21, 2022.

Purpose: The department is extending emergency amendments to WAC 388-424-0001 Citizenship and immigration status—Definitions, 388-424-0020 How does my alien status impact my eligibility for federally funded basic food benefits?, and 388-466-0005 Immigration status requirements for refugee cash assistance.

These amendments are necessary to align department policies with federal legislation and authorization from the Office of Refugee Resettlement expanding eligibility for federally funded benefits to humanitarian parolee arrivals displaced from Ukraine.

Citation of Rules Affected by this Order: Amending WAC 388-424-0001, 388-424-0020, and 388-466-0005.

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

Other Authority: Additional Ukraine Supplemental Appropriations Act, 2022 (AUSAA) and ORR Policy Letter 22-13.

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

Reasons for this Finding: Effective May 21, 2022, AUSAA authorizes the federal Office of Refugee Resettlement to provide resettlement assistance and other benefits available for refugees to specific Ukrainian populations and other specified non-Ukrainian individuals.

The department is concurrently proceeding with the permanent rule-making process. Refer to CR-101 filed as WSR 22-14-025.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, 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 3, Repealed 0.

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

Date Adopted: October 17, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4943.3

AMENDATORY SECTION (Amending WSR 22-12-038, filed 5/25/22, effective 6/25/22)

WAC 388-424-0001 Citizenship and immigration status—Definitions. For the purposes of determining an individual's citizenship and immigration status for public assistance, the following definitions apply:

(1) **"Lawfully present"** are immigrants or noncitizens who have been inspected and admitted into the United States and have not overstayed the period for which they were admitted, or have current permission from the U.S. Citizenship and Immigration Services (CIS) to stay or live in the U.S.

(2) **"Qualified aliens"** are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under INA §207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Laotian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964, to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking according to federal law are:

(A) Individuals who have been certified as victims of trafficking by the federal U.S. Department of Health and Human Services (HHS), Office on Trafficking in Person (OTIP), or have been granted a T visa.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or unmarried minor sibling if the victim is under 21 years old.

(iii) Afghan nationals and their spouses and children, paroled into the U.S. between July 31, 2021, and September 30, 2022, after evacuation from Afghanistan to the U.S., or to a location overseas (-): or

(A) an individual who was paroled into the U.S. after September 30, 2022, and is the spouse or child of an Afghan national as defined in subsection (iii) of this section;

(B) an individual who is the parent or legal guardian of an individual defined in subsection (iii) of this section who is determined to be an unaccompanied child;

(iv) Special immigrants from Iraq and Afghanistan are individuals granted:

(A) Special immigrant status under INA §101 (a) (27);

(B) Special immigrant conditional permanent resident; or

(C) Paroled under section 602(B)(1)AAPA/Sec 1059(a)NDAA 2006.

(v) Individuals from Ukraine and their family members admitted as humanitarian parolees between February 24, 2022, and September 30, 2023, and whose parole has not been terminated by the Secretary of the Department of Homeland Security (DHS), who are:

(A) Citizens or nationals of Ukraine;

(B) Non-Ukrainian individuals who were habitually residing in Ukraine, and have documentation confirming last habitual residence in Ukraine;

(C) Individuals who were first granted humanitarian parole, and then obtained temporary protected status (TPS). They are eligible for federally funded assistance until the end of their parole term due to underlying receipt of humanitarian parole;

(D) A spouse or child of an individual described in subsections (A)-(C) of this section who is paroled into the United States after September 30, 2023;

(E) A parent, legal guardian, or primary caregiver of an unaccompanied refugee minor or an unaccompanied child described in subsections (A)-(C) of this section who is paroled into the United States after September 30, 2023.

(c) Individuals who have been granted asylum under INA §208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried child under age 21 of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the violence against women act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned 21 years old. Children of abused persons who meet the conditions (~~above~~) in this section retain their "qualified alien" status even after they turn 21 years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA §212 (d) (5), including "public interest" parolees.

(g) Individuals granted withholding of deportation or removal under INA §243(h) or §241 (b) (3).

(h) Individuals who were admitted to the U.S. as conditional entrants under INA §203 (a) (7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(3) **"Nonqualified aliens"** are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens in subsection (1) of this section. Nonqualified aliens include but are not limited to:

(a) Citizens of Marshall Islands, Micronesia, or Palau;

(b) Immigrants paroled into the U.S. for less than one year;

(c) Immigrants granted temporary protected status; or

(d) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also nonqualified. Examples include:

(i) Business visitors;

(ii) Students; and

(iii) Tourists.

(4) **"Survivors of certain crimes"** are noncitizens, and any of their qualifying family members, as defined in subsection (5) of this section, who have:

(a) Filed or are preparing to file an application for a T visa (trafficking victim);

(b) Filed or are preparing to file an application for a U visa (crime victim); or

(c) Been harmed by one of the specific crimes described below; and

(i) Was granted continued presence by U.S. Homeland Security; or

(ii) Has filed or is preparing to file an application for asylum status.

Specific crimes include:

(A) Those related to human trafficking, kidnapping, unlawful imprisonment, custodial interference, luring, trafficking, coercion of involuntary servitude, and others under chapter 9A.40 RCW;

(B) Sexual exploitation of children and others under chapter 9.68A RCW; or

(C) Substantially similar crimes under federal law or the laws of another state.

(5) **"Qualifying family members"** are the spouse and child(ren) of survivors of certain crimes, and the parents or unmarried minor siblings if the survivor is under 21 years old. Qualifying family members do not include a person charged with or convicted of attempt, conspiracy, solicitation, or commission of a crime, listed under subsection (4)(c) of this section, against the survivor of certain crimes.

(6) **"Undocumented aliens"** are noncitizens without a lawful immigration status as defined in subsections (2) or (3) of this section, and who:

(a) Entered the U.S. illegally; or

(b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).

(7) **"U.S. citizens"** are one of the following:

(a) Individuals born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).

(b) American Indians born outside the U.S. without regard to immigration status or date of entry if:

(i) They were born in Canada and are 50 percent American Indian blood (but need not belong to a federally recognized tribe); or

(ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.

(c) Individuals who have become naturalized U.S. citizens.

(d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per title 8, subchapter III, section 1401 of the United States Code.

(e) Individuals who turn 18 years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age 18 per INA 320.

(i) The individual is granted lawful permanent resident (LPR) status;

(ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and

(iii) The individual:

(A) Resides in the U.S. in the legal and physical custody of the citizen parent; or

(B) Was adopted according to the requirements of INA 101 and resides in the U.S. in the legal and physical custody of the citizen parent.

(f) Individuals, who turned 18 before February 27, 2001, would have automatically become a citizen if, while still under 18, they became a lawful permanent resident and both of their parents were naturalized. Such individuals also may have derived citizenship when only one parent naturalized, if the other parent was dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.

(8) **"U.S. nationals"** are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(a) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 22-12-038, § 388-424-0001, filed 5/25/22, effective 6/25/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.820, 74.08.090, 74.08A.120, 74.09.035. WSR 22-02-014, § 388-424-0001, filed 12/27/21, effective 2/1/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 20-09-044, § 388-424-0001, filed 4/8/20, effective 5/9/20. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0001, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.020, and Sec. 8120 of Pub. L 111-118 (DOD appropriations law); USDA Food and Nutrition Service federal guidance from January 29, 2010; U.S. DHHS Administration for Children and Families, Office of Family Assistance federal guidance letter No. TANF-ACF-PI-2010-05 issued on June 16, 2010. WSR 10-15-045, § 388-424-0001, filed 7/13/10, effective 7/27/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-424-0001, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0001, filed 7/7/04, effective 8/7/04.]

AMENDATORY SECTION (Amending WSR 22-12-038, filed 5/25/22, effective 6/25/22)

WAC 388-424-0020 How does my alien status impact my eligibility for federally funded basic food benefits? (1) If you are a U.S. citizen or U.S. national as defined in WAC 388-424-0001 and meet all other eligibility requirements, you may receive federal Basic Food benefits.

(2) If you are not a U.S. citizen or U.S. national, you must fall within (a) or (b) of this subsection, and meet all other eligibility requirements, in order to receive federal Basic Food benefits:

(a) You are a member of one of the following groups of lawful immigrants as defined in WAC 388-424-0001:

(i) Amerasian;

(ii) Asylee;

- (iii) Cuban or Haitian entrant;
 - (iv) Deportation or removal withheld;
 - (v) Refugee;
 - (vi) Afghan nationals paroled into the U.S. between July 31, 2021, and September 30, 2022, or their spouse or child paroled into the U.S. after September 20, 2023;
 - (vii) Special immigrant from Iraq or Afghanistan;
 - (viii) Victim of trafficking;
 - (ix) Noncitizen American Indian; or
 - (x) Hmong or Highland Lao tribal member.
- (b) ~~((i))~~ You are a member of one of the following groups of qualified aliens as defined in WAC 388-424-0001:
- ~~((A))~~ (i) Conditional entrant;
 - ~~((B))~~ (ii) Lawful permanent resident (LPR);
 - ~~((C))~~ (iii) Paroled for one year or more; ~~((e))~~
 - (iv) Individuals from Ukraine granted humanitarian parole between February 24, 2022, and September 30, 2023; or
 - (A) their spouses and children paroled into the U.S. after September 30, 2023; or
 - (B) a parent, legal guardian, or primary caregiver of an unaccompanied refugee minor or an unaccompanied child described who is paroled into the U.S. after September 30, 2023; or
 - ~~((D))~~ (v) Abused spouse or child or parent or child of an abused spouse or child.
- ~~((ii))~~ (vi) And, one of the following also applies to you:
- (A) You have worked or can get credit for ~~((forty))~~ 40 Social Security Administration (SSA) work quarters - as described in WAC 388-424-0008;
 - (B) You are an active duty personnel or honorably discharged veteran of the U.S. military or you are the spouse, unmarried surviving spouse, or unmarried dependent child of someone who meets this requirement, as described in WAC 388-424-0007;
 - (C) You receive cash or medical benefits based on supplemental security income (SSI) criteria for blindness or disability;
 - (D) You have lived in the U.S. as a "qualified alien" as described in WAC 388-424-0001 for at least five years;
 - (E) You are under age ~~((eighteen))~~ 18; or
 - (F) You were lawfully residing in the U.S. on August 22, 1996, and were born on or before August 22, 1931.
- (3) If you are a legal immigrant not eligible for federal benefits under Basic Food only because of your alien status, you may be eligible for state-funded food assistance program (FAP) benefits under WAC 388-400-0050.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 22-12-038, § 388-424-0020, filed 5/25/22, effective 6/25/22. Statutory Authority: RCW 74.04.005, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 12-18-024, § 388-424-0020, filed 8/27/12, effective 9/27/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120. WSR 11-02-035, § 388-424-0020, filed 12/29/10, effective 2/1/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.020, and Sec. 8120 of Pub. L 111-118 (DOD appropriations law); USDA Food and Nutrition Service federal guidance from January 29, 2010; U.S. DHHS Administration for Children and Families, Office of Family Assistance federal guidance letter No. TANF-ACF-PI-2010-05 issued on June 16, 2010. WSR 10-15-045, § 388-424-0020, filed 7/13/10, effective

7/27/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.320, Pub. L. No. 110-181, National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602; Office of Refugee Resettlement State Letter 09-17 from April 9, 2009; and federal guidance issued on May 15, 2009, by the Food and Nutrition Service, United States Department of Agriculture. WSR 09-21-046, § 388-424-0020, filed 10/14/09, effective 11/4/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-424-0020, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0020, filed 7/7/04, effective 8/7/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.04.510. WSR 03-05-029, § 388-424-0020, filed 2/10/03, effective 4/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and H.R. 2646 Farm Security and Rural Investment Act of 2002. WSR 02-22-046, § 388-424-0020, filed 10/30/02, effective 12/1/02. Statutory Authority: RCW 74.04.510, S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. WSR 99-01-058, § 388-424-0020, filed 12/11/98, effective 1/11/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-424-0020, filed 7/31/98, effective 9/1/98. Formerly WAC 388-518-1805.]

AMENDATORY SECTION (Amending WSR 22-12-038, filed 5/25/22, effective 6/25/22)

WAC 388-466-0005 Immigration status requirements for refugee cash assistance. (1) You may be eligible for refugee cash assistance (RCA) if you can provide documentation issued by the U.S. Citizenship and Immigration Services (USCIS), that you are:

- (a) Admitted as a refugee under section 207 of the Immigration and Nationalities Act (INA);
- (b) Paroled into the U.S. as a refugee or asylee under section 212 (d) (5) of the INA;
- (c) Granted conditional entry under section 203 (a) (7) of the INA;
- (d) Granted asylum under section 208 of the INA;
- (e) Admitted as an Amerasian Immigrant from Vietnam through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 Continuing Resolution P.L. 100-212;
- (f) A Cuban-Haitian entrant who was admitted as a public interest parolee under section 212 (d) (5) of the INA;
- (g) Certified as a victim of human trafficking by the federal office of refugee resettlement (ORR);
- (h) An eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 Visa;
- (i) Afghan nationals paroled into the U.S. between July 31, 2021, and September 30, 2022; or
- (i) an individual who was paroled into the U.S. after September 30, 2022, and is the spouse or child of an Afghan national as defined in subsection (i) of this section;

(ii) an individual who is the parent or legal guardian of an individual defined in subsection (i) of this section who is determined to be an unaccompanied child;

(j) Admitted as Special Immigrant from Iraq or Afghanistan under section 101 (a) (27) of the INA, or special immigrant conditional permanent resident, or paroled under section 602(B) (1) AAPA/Sec 1059(a) NDAA 2006((-));

(k) Individuals from Ukraine admitted as humanitarian parolees between February 24, 2022, and September 30, 2023, and whose parole has not been terminated by the Secretary of the Department of Homeland Security (DHS), who:

(i) are citizens or nationals of Ukraine;

(ii) are non-Ukrainian individuals, who were habitually residing in Ukraine, and have documentation confirming last habitual residence in Ukraine;

(iii) are individuals who were first granted humanitarian parole, and then obtained temporary protected status (TPS). They are eligible for refugee cash assistance until the end of their parole term due to underlying receipt of humanitarian parole;

(iv) are children or spouses of someone paroled into the U.S. under subsection (k) of this section and who are paroled into the U.S. after September 30, 2023; or

(v) is the parent, legal guardian, or primary caregiver of an individual described in subsection (k) of this section who is determined to be an unaccompanied child.

(2) A permanent resident alien meets the immigration status requirements for RCA if the individual was previously in one of the statuses described in subsections (1)(a) through ~~((g))~~ (k) of this section.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 22-12-038, § 388-466-0005, filed 5/25/22, effective 6/25/22. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250, and 2011 1st sp.s. c 15. WSR 12-19-037, § 388-466-0005, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-466-0005, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-466-0005, filed 7/31/98, effective 9/1/98.]

WSR 22-21-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-242—Filed October 17, 2022, 3:06 p.m., effective October 17, 2022, 3:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends Puget Sound commercial purse seine, gill net, and reef net fisheries.

Citation of Rules Affected by this Order: Amending WAC 220-354-120, 220-354-160, and 220-354-180.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.045 [77.12.045], and 77.12.047.

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

Reasons for this Finding: This emergency rule is needed to close commercial salmon fishing to gill net, purse seine, and reef net gear in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A. Catch levels for chum salmon in Marine Areas 7 and 7A are determined through provisions within Chapter 6 of Pacific Salmon treaty. The United States was informed on October 14 that the runsize of chum returning to the Fraser River is less than 1.05 million, triggering a reduction in the catch ceiling in United States fisheries to critical level. Fisheries need to be closed to ensure that the United States stays within harvest limits established by the treaty. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 17, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000L Puget Sound salmon—Purse seine—Open periods. Effective immediately, the following provisions of WAC 220-354-120 regarding commercial Gill Net open periods in Puget Sound Salmon Management and Catch Reporting Areas 7 and 7A shall be as follows. All other

provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open Periods
7 and 7A	Closed

[]

NEW SECTION

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

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

Areas	Open Periods
7 and 7A	Closed

[]

NEW SECTION

WAC 220-354-18000V Puget Sound salmon—Reef net—Open periods.

Effective 12:01 a.m. October 18, 2022, the following provisions of WAC 220-354-180 regarding reef net open periods in Puget Sound Salmon Management and Catch Reporting Area 7 shall be as follows. All other provisions of WAC 220-354-180 not contained herein remain in effect unless others altered by emergency rule:

Areas	Open Periods
7 and 7A	Closed

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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.

WSR 22-21-102

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed October 17, 2022, 3:47 p.m., effective October 17, 2022, 3:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-980-100 (5)(c) requires that home care aide certification testing occur within two years of training. This emergency rule removes the two-year limit on the validity of training.

Lasting impacts from the coronavirus disease 2019 (COVID-19) pandemic have increased home care aide workforce shortages by creating backlogs that limit access to training and testing. Continuing to require testing within two years of training would require many uncertified individuals to repeat training, delaying and possibly preventing them from becoming credentialed as home care aides. This would negatively impact the individuals working toward their credential, the home care aide workforce, and the clients for whom they provide care. Suspending the two-year limitation on training will remove barriers to certification caused by the COVID-19 pandemic, while still ensuring that home care aides complete the training necessary to safely care for clients.

Citation of Rules Affected by this Order: Amending WAC 246-980-100.

Statutory Authority for Adoption: RCW 18.88B.021.

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

Reasons for this Finding: This emergency rule is necessary to avoid a critical shortage of home care aides, to support the clients who rely on home care aides, and to avoid increasing the existing training and testing backlogs.

During the COVID-19 pandemic, the home care aide training, testing, and certification pipeline was severely impacted. Early 2020 closures and capacity restrictions created long-lasting backlogs, preventing individuals from becoming credentialed within statutory time frames. Currently, certification time frames are waived by Governor's Proclamations 20-52 and 20-65, but after the proclamations are rescinded on October 27, 2022, individuals working toward home care aide certification will need to meet requirements in chapter 246-980 WAC. If the two-year limit on the validity of training remains in place, individuals trained earlier in the pandemic will be required to repeat training. This could have negative impacts, including: (1) Certification delays while individuals wait for training availability and then repeat training; (2) increased training backlogs; (3) loss of potential home care aides, as individuals who repeat training may be unable to meet certification time frames; and (4) forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings or hospitals.

Removing this limit by emergency rule would support the home care aide workforce and the public health by: (1) Removing a barrier to certification, while still requiring that home care aides receive appropriate training; (2) enabling more vulnerable individuals to receive care in their homes, rather than needing to obtain care in residential care settings; and (3) helping to create a smooth transition

away from regulation through pandemic emergency measures and back to statutory time frames.

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: October 17, 2022.

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

OTS-4130.1

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

WAC 246-980-100 Examination and reexamination for home care aide certification. (1) The certification examination will consist of both a written knowledge test and a skills demonstration.

(2) The certification examination will test the core competencies, including but not limited to:

- (a) Communication skills;
- (b) Worker self-care;
- (c) Problem solving;
- (d) Maintaining dignity;
- (e) Consumer directed care;
- (f) Cultural sensitivity;
- (g) Body mechanics;
- (h) Fall prevention;
- (i) Skin and body care;
- (j) Home care aide roles and boundaries;
- (k) Supporting activities of daily living; and
- (l) Food preparation and handling.

(3) An applicant must apply to take the examination by completing the application for both certification and the examination and returning it to the department. The department will notify the examination contractor once an applicant meets all requirements to take the certification examination.

(4) The examination contractor will notify an applicant of the date, time, and place of the examination.

(5) The examination contractor will notify both the department and an applicant of the examination results.

(a) An applicant who does not successfully pass any portion of the examination can follow the examination contractor's procedures for review and appeal.

(b) An applicant who does not successfully pass any portion of the examination may retake that portion of the examination two times.

(i) To retake the examination, an applicant must submit an application for reexamination, along with the required reexamination fee directly to the examination contractor.

(ii) An application for reexamination may be submitted any time after an applicant receives notice of not successfully completing any portion of the certification examination.

(c) An applicant who does not successfully pass both portions of the certification examination (~~(within two years of successfully completing the required training or who does not successfully pass both portions of the certification examination)~~) after completing the certification examination three consecutive times:

(i) Must retake and successfully complete the core competencies portion of the entry-level training as required by RCW 74.39A.074 before retaking both portions of the certification examination; and

(ii) Cannot continue to provide care as a long-term care worker until the certification has been issued.

[Statutory Authority: RCW 18.88B.021. WSR 18-20-072, § 246-980-100, filed 9/28/18, effective 10/29/18. Statutory Authority: Chapters 18.88B and 18.130 RCW, 2012 c 164, and 2013 c 259. WSR 13-19-087, § 246-980-100, filed 9/18/13, effective 10/19/13. Statutory Authority: Chapters 18.88B and 74.39A RCW. WSR 10-15-103, § 246-980-100, filed 7/20/10, effective 1/1/11.]

WSR 22-21-104
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-243—Filed October 17, 2022, 4:53 p.m., effective October 17, 2022, 4:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Closes commercial harvest of green sea urchin in District 2.

Citation of Rules Affected by this Order: Repealing WAC 220-343-75000L; and amending WAC 220-340-750.

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

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

Reasons for this Finding: This emergency rule closes harvest of green sea urchins in Sea Urchin District 2 following the projected attainment of the District 2 quota.

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: October 17, 2022.

Kelly Susewind
Director

NEW SECTION

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

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

2. The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 3, District 4, District 6, and District 7.

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

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-75000L Commercial sea urchins fisheries.
(22-225)

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 22-21-122

EMERGENCY RULES

TRANSPORTATION COMMISSION

[Filed October 18, 2022, 12:23 p.m., effective October 18, 2022, 12:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to amend WAC 468-300-080 related to the ferry fare fuel surcharge for Washington state ferries (WSF). Under the emergency rule, the fuel surcharge may only be implemented with approval of the Washington state transportation commission (WSTC), as opposed to it being automatically triggered.

This is the second emergency filing in sequence for WAC 468-300-080. On October 12, 2022, WSTC filed the CR-101 preproposal statement of inquiry to begin the regular full rule-making process.

Citation of Rules Affected by this Order: Amending WAC 468-300-080.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.315, 34.05.350.

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

Reasons for this Finding: In addition to the conditions identified above, RCW 34.05.350 (1)(c) states in part:

"In order to implement the requirements or reductions in appropriations enacted ... in an omnibus transportation appropriations act for the 2021-2023 biennium related to setting toll rates or ferry fares, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency, the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis."

The current WAC policy sets forth an automatic trigger for the fuel surcharge when specified thresholds are met. Under the current provisions, there is no subsequent review by WSTC nor the ability to stop, delay, or modify the way in which the surcharge is applied.

Given current economic challenges which directly impact the state and public financially, assessment of further charges upon ferry riders must include full review and approval by WSTC before it is implemented to ensure all current efforts, including WSF's fuel hedging program are fully considered in the assessment. In support of this assessment, this rule change will enable WSTC to consider factors such as the revenue requirements of the ferry system, available funding, and impacts on ferry riders and local communities when determining whether to implement the fuel surcharge.

Should current fuel market trends continue, it is possible the fuel surcharge could be automatically triggered before a regular rule-making process could be completed. Thus, this emergency rule making is needed to ensure the change is effective immediately, followed by a full rule-making process that will include gathering public input.

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: October 18, 2022.

Reema Griffith
Executive Director

OTS-3891.1

AMENDATORY SECTION (Amending WSR 13-18-019, filed 8/26/13, effective 9/26/13)

WAC 468-300-080 Fuel surcharge. (1) In order to manage the financial risk associated with fuel price volatility, it is hereby declared to be the policy of the Washington state transportation commission (~~(to)~~) (WSTC) that the WSTC may implement a fuel surcharge as an added component to the regular posted fares for passage on vessels operated by Washington state ferries (WSF) to mitigate the financial impacts associated with unexpected increases in fuel prices which exceed those incorporated in WSF's fuel budget. Upon WSTC approval, the total ferry fare charged will consist of the base fare plus an (~~automatic,~~) incremental, additional surcharge as calculated according to the formula set forth in this rule.

(2) The method for calculating the fuel surcharge amount shall be as follows:

(a) Determine excess fuel costs for the current quarter by subtracting budgeted fuel costs from actual fuel costs for the quarter. For the purposes of this rule, quarters shall be consistent with the state fiscal year definition of quarters.

(b) To minimize lags in the application of this rule, the quarter will be closed one month prior to the actual end of the quarter, and an estimate of actual costs will be prepared to account for the third month and any lags in accounting for actual purchases.

(c) The estimate of costs for the missing month shall be developed as follows:

(i) Estimated fuel costs for the third month of the quarter will be based on the Oil Price Information Service (OPIS) daily contract average rack prices for ultra low-sulfur dyed diesel fuel for the first (~~(fifteen)~~) 15 days of the missing month as reported by the Washington state department of general administration's office of state procurement for Tacoma and Anacortes fuel price data as of the cutoff date.

(ii) Applicable taxes and fees are added to the Anacortes and Tacoma rack prices to derive total estimated cost per gallon for purchases at Anacortes and Tacoma on the missing days.

(iii) Total price per gallon is multiplied by budgeted gallons of fuel for the missing month in the quarter, where gallons are split into estimated purchases at Anacortes and Tacoma prices based on the year-to-date shares of gallons purchased at Tacoma and Anacortes rack prices.

(d) Net excess fuel costs for the quarter shall be determined on the basis of the current estimate of the excess fuel costs for the quarter plus an accounting for the following:

(i) Any necessary reconciliation from the previous quarter's estimate of actual costs once full accounting of actual costs is complete.

(ii) Any necessary adjustments to ensure actual costs reflect budget assumptions regarding the appropriate share of biodiesel fuel or total diesel gallons to be purchased. Where actual gallons purchased or share of biodiesel vary from the assumptions used to develop the budget, the actual costs shall be reduced by the amount that these variations may have increased costs beyond the amounts assumed in the budget appropriation.

(iii) Subtracting any fuel surcharge revenues collected in the current quarter.

(iv) Adding net excess fuel costs from the previous quarter.

(e) Calculate an excess fuel cost percentage by dividing adjusted excess fuel costs by the current quarter's budgeted fuel costs.

(f) A fuel surcharge amount is then calculated as follows:

(i) Multiply the excess fuel cost percentage by the share of budgeted fuel costs to total operating costs for the current biennium (defined as the specific fuel appropriation divided by the total appropriation made to "Program X - Marine" as provided in the current transportation budget and supporting financial plan); then

(ii) Divide the result by the farebox recovery rate for the current biennium (defined as the fare revenue target divided by total appropriation to "Program X - Marine" as provided in the current transportation budget and supporting financial plan).

(3) A fuel surcharge shall be determined based on the calculation of the surcharge amount (as defined in subsection (2)(f) of this section) and applied to applicable fares as follows:

(a) If the surcharge amount is less than 2.5%, then a fuel surcharge shall not be applied.

(b) Upon final approval by the WSTC, if the surcharge amount is equal to or greater than 2.5%, then the surcharge shall be determined as follows:

(i) Surcharge amount is equal to or greater than 2.5% and less than 5% then the surcharge shall be 2.5% of the applicable fare.

(ii) Surcharge amount is equal to or greater than 5% and less than 7.5% then the surcharge shall be 5% of the applicable fare.

(iii) Surcharge amount is equal to or greater than 7.5% and less than 10% then the surcharge shall be 7.5% of the applicable fare.

(iv) Surcharge amount is 10% or greater, the surcharge shall be 10% of the applicable fare.

(c) In determining final approval for the surcharge, the WSTC may consider factors including, but not limited to, the revenue requirements of the ferry system, available funding, and the impacts on users and local communities.

(d) The surcharge shall be applied to all fares, with resulting fares rounded to the nearest nickel.

(4) WSF shall estimate the need for a fuel surcharge on a quarterly basis, based upon the formula prescribed in this rule (~~, and if~~). If the WSTC approves such a surcharge (~~(is to be added or modified, then)~~), the department shall:

(a) Notify ORCA partners and customers of the pending surcharge changes at least (~~(thirty)~~) 30 days prior to implementation of said changes.

(b) Make all surcharge changes effective on the first of the month.

(5) Excess fuel costs shall be reset to zero at the beginning of the biennium.

(6) The amount of any fuel surcharge shall be shown separately on customer receipts.

(7) WSF shall provide an annual report to the legislature, OFM, and the Washington state transportation commission summarizing its fuel cost mitigation activities, including how the department has managed its costs as well as the application, performance and impact of fuel surcharges pursuant to this authority.

(8) To facilitate understanding on the part of WSF customers and to ensure a transparent process, an explanation of how the surcharge is applied, including a summary of the actual calculation of the surcharge percentage, shall be described on the WSF website.

(9) This rule goes into effect on October 1, 2011.

[Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 13-18-019, § 468-300-080, filed 8/26/13, effective 9/26/13; WSR 11-18-034, § 468-300-080, filed 8/30/11, effective 10/1/11 and 5/1/12.]

WSR 22-21-144
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-244—Filed October 19, 2022, 11:33 a.m., effective October 19, 2022, 11:33 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open limited participation gillnet and purse seine fisheries in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11.

Citation of Rules Affected by this Order: Amending WAC 220-354-120 and 220-354-160.

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

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

Reasons for this Finding: This rule is necessary to add commercial purse seine and gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11. The latest in-season runsize estimate for South Sound chum salmon based on test fishing is large enough to allow limited commercial opportunity, but insufficient to support full fleet openings. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: October 19, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000M Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM until 6:00 PM, October 20, 2022 the following provisions of WAC 220-354-120 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as follows. All other provisions of WAC 220-354-120 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	10/20/2022

(a) For week 43 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 and 11 purse seine fishery:

- (i) Paul Matson - FV Anita
- (ii) Andrew Blair - FV New Oregon
- (iii) Craig Councilman - FV Christian S
- (iv) Michael Galligan - FV Sofia Lynn
- (v) Leach Lachlin (Alama J Inc.) - FV Cape Flattery

(b) It is unlawful to land more than 2000 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

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NEW SECTION

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

Effective October 19, 2022, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10 and 11 shall be as described below. All other provisions of WAC 220-354-160 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 PM - 9 AM	Opening 10/19/2022

(a) For week 43 the following participants that have been selected and notified by the Department, or their designated alternate operator, are permitted to participate in the Area 10 and 11 gill net fishery:

- (i) Jeffery Songstad - FV YaYa
- (ii) Loki Fish Co (Jonah Knutson) - FV Loki
- (iii) Brad Barber - FV Russeller
- (iv) Joseph Popich - FV J&M (JanM)
- (v) Kristian Warfel - FV Toni M
- (vi) Fred Marinkovich - FV Bristol Sound
- (vii) John McDonald - FV Sanjo
- (viii) Timothy Vardy - FV C. Rae
- (ix) Michael Flotre - FV Jospen
- (x) Cole Steffens - WN0241NC

(b) It is unlawful to land more than 300 chum per license during open periods listed herein.

(c) It is unlawful to possess salmon caught in other Marine Areas while participating in this fishery.

(d) Agreement to participate in this fishery will require that a department observer be allowed on board the vessel while fishing if requested by department staff.

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