

WSR 23-01-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-280—Filed December 9, 2022, 4:37 p.m., effective December 12, 2022]

Effective Date of Rule: December 12, 2022.

Purpose: Increases the weekly landing limit for green sea urchins.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000M; 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 increases the weekly landing limit for green sea urchins to allow more harvester opportunity for the quota before the harvest season ends, due to the urchin spawning phase. There is approximately 80 percent of the green urchin quota remaining in District 1, which is far behind the typical pace of landings in early December. The green urchin spawning phase usually begins by mid-January and reduces their market quality to the point of ending the harvest season. Increasing the weekly landing limits from 1,500 to 2,500 pounds per week will allow more opportunity for harvesters while remaining within agreed-upon harvest 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: December 9, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000N Commercial sea urchin fishery. Effective December 12, 2022, 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 2,500 pounds per valid designated sea urchin harvest license.

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REPEALER

The following section of Washington Administrative Code is repealed, effective December 12, 2022:

WAC 220-340-75000M Commercial sea urchin fishery. (22-280)

WSR 23-01-038
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 13, 2022, 1:02 p.m., effective December 13, 2022, 1:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule allows the factory assembled structure (FAS) program to effectively approve plans for commercial coach trailers, factory-built housing and commercial structures, recreational park trailers, recreational vehicles, and conversion vendor units (food trucks and trailers) as required under RCW 43.22.360 and 43.22.480. The rule language includes changes to chapters 296-150C and 296-150F WAC that clarify plan submission requirements. The rule adds provisions to chapters 296-150P, 296-150R, and 296-150V WAC to allow plans for recreational park trailers, recreational vehicles (RVs), and conversion vendor units to be reviewed and approved by a licensed professional engineer, architect or firm as authorized by RCW 43.22.360(3).

This emergency rule is needed to allow the FAS program (program) to continue addressing a backlog of more than 500 design plans that still exist, while permanent rules are being developed.

Citation of Rules Affected by this Order: New WAC 296-150P-0315, 296-150P-0520, 296-150P-0530, 296-150P-0540, 296-150P-0550, 296-150P-0560, 296-150P-0570, 296-150P-0580, 296-150P-0590, 296-150P-3001, 296-150R-0315, 296-150R-0520, 296-150R-0530, 296-150R-0540, 296-150R-0550, 296-150R-0560, 296-150R-0570, 296-150R-0580, 296-150R-0590, 296-150R-3001, 296-150V-0420, 296-150V-0430, 296-150V-0440, 296-150V-0450, 296-150V-0460, 296-150V-0470, 296-150V-0480, 296-150V-0490 and 296-150V-3001; and amending WAC 296-150C-0310, 296-150C-0420, 296-150C-0430, 296-150C-0460, 296-150C-0480, 296-150F-0310, 296-150F-0420, 296-150F-0430, 296-150F-0460, 296-150F-0480, 296-150P-0020, and 296-150V-0310.

Statutory Authority for Adoption: RCW 43.22.360(3), 43.22.480(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 comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule making allows the program to address the backlog of 500 design plans that still exists, while permanent rules are being developed. The department of labor and industries (L&I) filed a preproposal statement of inquiry (CR-101) to initiate the permanent rule-making process on August 16, 2022. L&I will be seeking input from stakeholders in the development of the permanent rules.

In February 2020, a state of emergency was declared in Washington state to respond to the COVID-19 virus, which ultimately became a global pandemic. L&I has been involved in several efforts to respond to the pandemic effects on the economy, employment, and worker safety. As a result of L&I's response, resources and staffing shortages in the program have developed a backlog of plans for review and approval. This emergency rule is needed to protect the general welfare of Washingtonians by ensuring plans for commercial coaches, factory-built housing and commercial structures, recreational park trailers, RVs,

and conversion vendor units are approved in a timely manner and inspected to the safety standards of chapters 296-150C, 296-150F, 296-150P, 296-150R, and 296-150V WAC. If the emergency rule is not adopted, the backlog of plans needing review by the program will significantly increase and likely cause serious harm to the entire FAS industry by impacting production as well as putting the public at risk of harm due to the lack of safety inspections for these structures prior to them being used by businesses and the public.

As of this filing, the program has more than 500 plans waiting for review by the program's seven plan examiners. L&I has worked aggressively to hire more plan reviewers. These plans are for all the types of structures identified above and include everything from simple RV trailers to large commercial buildings.

The backlog has also created delays in public safety inspections of factory-built housing and commercial structures and of conversion vendor units (food trucks and trailers), because inspections cannot be performed without approved plans. In addition, lacking plans for some of their designs, the RV and recreational park trailer industries face delays in sending their products to Washington, as they cannot apply Washington labels to models that have not been reviewed and approved.

These changes and additions made in the emergency rule will help address and reduce the backlog of plan reviews and promote timely public safety inspections by providing for "licensed professional" plan reviews for the program. This will provide manufacturers with an alternate method to obtain approved plans in a timely manner, thus helping businesses remain in business or continue business operations. In addition, updating the existing rules in chapters 296-150C and 296-150F WAC will make it easier for manufacturers using licensed professional reviews, by simplifying and clarifying our requirements for those types of plans.

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 29, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 29, Amended 12, 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 29, Amended 12, Repealed 0.

Date Adopted: December 13, 2022.

Joel Sacks
Director

OTS-3538.1

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150C-0310 Who can approve design plans? (1) Design plans can be approved by us or by a licensed professional or firm authorized by us. (See WAC 296-150C-0420 and 296-150C-0430.)

(2) All electrical design plans for new or altered electrical installations for educational institutions, health care facilities, and other buildings required by chapter 296-46 WAC, Safety standards—Installing electric wires and equipment—Administrative rules, must be reviewed and approved by us.

(3) ~~((A professional cannot approve plans submitted under a reciprocal agreement.))~~ All design plans submitted under a reciprocal agreement for multistate approval must be reviewed and approved by us.

[Statutory Authority: Chapter 43.22 RCW. WSR 98-14-078, § 296-150C-0310, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-0310, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-0420 Who can be authorized to approve design plans?

(1) A professional engineer, architect or firm licensed by the state of Washington according to the Engineers Registration Act, chapter 18.43 RCW and/or the Architects Registration Act, chapter 18.08 RCW; or

(2) A professional engineer, architect or firm licensed in another state that has licensing or certification requirements that meet or exceed Washington requirements.

(3) A professional who designs and certifies that the commercial coach design meets state requirements cannot also approve the design plan in the plan approval process.

(4) A professional cannot approve those electrical designs listed in WAC 296-150C-0310(2).

(5) A professional cannot approve plans submitted under a reciprocal agreement.

[Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-0420, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-0430 What information must a professional or firm provide to be authorized to approve design plans? (1) Name, a copy of your certificate of registration or authority, and address of the professional engineer ~~((or))~~, architect, or firm; ((or)) and

(2) ~~((Name, a copy of your certificate of authority, and address of the firm; and~~
~~(3))~~) A description of the services the professional engineer, architect, or firm will provide in the areas of structural, fire and life safety, energy, mechanical, plumbing, and electrical plan review; and
~~((4) A description)~~) (3) A summary of the professional's
~~((area(s) of))~~ or firm's expertise and qualifications ~~((which include:~~
~~(a) A summary of the professional's or firm's experience; and~~
~~(b) Verification of experience in your area of expertise such as structural, mechanical, plumbing, energy, electrical, fire and life safety, and ventilation and indoor air quality))~~ to review plans in the areas identified by the description of services.

[Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-0430, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150C-0460 What information must a manufacturer (~~provide~~) send to the department when a professional or firm does the design-plan approval? You must ~~((provide))~~ send us the following information ~~((with))~~ in your approved design plans:

- (1) A completed departmental design-plan approval request form;
- (2) ~~((Two or more))~~ A set((s)) of design plans ~~((plus elevation))~~, drawings, specifications, engineering analysis, and test results and procedures necessary for a complete code evaluation of the design. These design plans must ~~((have an original wet stamp, be signed, and dated))~~ be sealed by the ~~((approving))~~ design professional(s) ~~((see WAC 296-150C-0340 and 296-150C-0350))~~ in accordance with chapters 196-23 and 308-12 WAC;
- (3) A cover sheet on the design plan noting which professional approved each portion of the design plan;
- (4) A copy of the authorization letter from us;
- (5) The design plan fee for design plans approved by professionals or firms; (see WAC 296-150C-3000.)
- ~~((6) A professional who designs and certifies that the commercial coach design meets state requirements cannot also approve the design plan in the plan approval process;~~
- ~~(7) A professional cannot approve those electrical designs listed in WAC 296-150C-0310(2); and~~
- ~~(8) A professional cannot approve plans submitted under a reciprocal agreement.)~~

[Statutory Authority: Chapter 43.22 RCW. WSR 98-14-078, § 296-150C-0460, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-0460, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-0480 Do you have a list of professionals or firms that are authorized to approve design plans? Yes. We will maintain a list of the licensed professionals and firms that are authorized to approve design plans for commercial coaches.

[Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-0480, filed 10/23/96, effective 11/25/96.]

OTS-3539.1

AMENDATORY SECTION (Amending WSR 12-15-061, filed 7/17/12, effective 9/1/12)

WAC 296-150F-0310 Who can approve design plans? (1) Design plans can be approved by us or by a licensed professional or firm authorized by us (see WAC 296-150F-0420 and 296-150F-0430).

(2) All electrical design plans for new or altered electrical installations for educational, institutional, health care facilities, and other buildings (see WAC 296-46B-900) must be reviewed and approved by us.

(3) All design plans submitted under a reciprocal agreement for multistate approval must be reviewed and approved by us.

[Statutory Authority: Chapter 43.22 RCW. WSR 12-15-061, § 296-150F-0310, filed 7/17/12, effective 9/1/12. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-0310, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0420 Who can be authorized to approve design plans?

(1) A professional engineer, architect, or firm licensed by the state of Washington according to the Engineers Registration Act, chapter 18.43 RCW and/or the Architects Registration Act, chapter 18.08 RCW; or

(2) A professional engineer, architect or firm licensed in another state that has licensing or certification requirements that meet or exceed Washington requirements.

(3) A professional who designs and certifies that the factory-built home or commercial structure design meets state requirements cannot also approve the design plan in the plan approval process;

(4) A professional cannot approve those electrical designs listed in WAC 296-150F-0310(2); and

(5) A professional cannot approve plans submitted under a reciprocal agreement.

[Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-0420, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0430 What information must a professional or firm provide to be authorized to approve design plans? (1) Name, a copy of your certificate of registration or authority, and address of the professional engineer ~~((or))~~, architect, or firm; ~~((or))~~ and
 (2) ~~((Name, a copy of your certificate of authority, and address of the firm; and~~
~~(3))~~ A description of the services the professional engineer, architect, or firm will provide in the areas of structural, fire and life safety, energy, mechanical, plumbing, and electrical plan review; and
~~((4) A description))~~ (3) A summary of the professional's
~~((area(s) of))~~ or firm's expertise and qualifications ~~((which include:~~
~~(a) A summary of the professional's or firm's experience; and~~
~~(b) Verification of experience in your area of expertise such as structural, mechanical, plumbing, energy, electrical, fire and life safety, and ventilation and indoor air quality))~~ to review plans in the areas identified by the description of services.

[Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-0430, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150F-0460 What information must a manufacturer ((provide)) send to the department when a professional or firm does the design plan approval? You must ~~((provide))~~ send us the following information ~~((with))~~ in your approved design plan:
 (1) A completed departmental design plan approval request form;
 (2) ~~((Two or more))~~ A set((s)) of the design plan~~((s plus elevation))~~ drawings, specifications, engineering analysis, and test results and procedures necessary for a complete code evaluation of the design. These design plans must ~~((have an original wet stamp, be signed, and dated))~~ be sealed by the ~~((approving))~~ design professional(s) ~~((see WAC 296-150F-0340 and 296-150F-0350))~~ in accordance with chapters 196-23 and 308-12 WAC;
 (3) A cover sheet on the design plan noting which professional approved each portion of the design plan;
 (4) A copy of the authorization letter from us; and
 (5) The design plan fee for design plans approved by professionals or firms (see WAC 296-150F-3000) ~~((~~
~~(6) A professional who designs and certifies that the factory-built home or commercial structure design meets state requirements cannot also approve the design plan in the plan approval process;~~

~~(7) A professional cannot approve those electrical designs listed in WAC 296-150F-0310(2); and~~

~~(8) A professional cannot approve plans submitted under a reciprocal agreement).~~

[Statutory Authority: Chapter 43.22 RCW. WSR 98-14-078, § 296-150F-0460, filed 6/30/98, effective 7/31/98. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-0460, filed 10/23/96, effective 11/25/96.]

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0480 Do you have a list of professionals or firms that are authorized to submit design plans? Yes. We will maintain a list of the licensed professionals and firms that are authorized to approve design plans for factory-built housing and commercial structures.

[Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-0480, filed 10/23/96, effective 11/25/96.]

OTS-3540.4

AMENDATORY SECTION (Amending WSR 12-15-061, filed 7/17/12, effective 9/1/12)

WAC 296-150P-0020 What definitions apply to this chapter? "**Alteration**" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"**Alteration insignia**" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"**ANSI**" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, current edition.

"**Approved**" is approved by the department of labor and industries.

"**Audit**" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, P.O. Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" see Appendix 'C' of ANSI A119.5 for reference to the appropriate edition to use for compliance.

"Recreational park trailer" also known as a "Park Model RV" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

[Statutory Authority: Chapter 43.22 RCW. WSR 12-15-061, § 296-150P-0020, filed 7/17/12, effective 9/1/12. Statutory Authority: RCW 43.22.340, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.480, and 43.22.485, 2002 c 268, and chapter 43.22 RCW. WSR 03-12-044, § 296-150P-0020, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.340 and 43.22.480. WSR 99-13-010, § 296-150P-0020, filed 6/4/99, effective 7/5/99. Statutory Authority: RCW 43.22.340 and 43.22.420. WSR 97-16-043, § 296-150P-0020, filed 7/31/97, effective 12/1/97.]

NEW SECTION

WAC 296-150P-0315 Who can approve design plans? (1) Comprehensive design plans for recreational park trailers can be approved by us or by a licensed professional or firm authorized by us. (See WAC 296-150P-0520 and 296-150P-0530.)

(2) All design plans for quality control manuals must be reviewed and approved by the department.

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NEW SECTION

WAC 296-150P-0520 Who can be authorized to approve design plans?

(1) A professional engineer, architect, or firm licensed by the state of Washington according to the Engineers Registration Act, chapter 18.43 RCW and/or the Architects Registration Act, chapter 18.08 RCW; or

(2) A professional engineer, architect, or firm licensed in another state that has licensing or certification requirements that meet or exceed Washington requirements.

(3) A professional cannot approve quality control plans.

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NEW SECTION

WAC 296-150P-0530 What information must a professional or firm provide to be authorized to approve design plans? (1) Name, a copy of your certificate of registration or authority, and address of the professional engineer, architect, or firm; and

(2) A description of the services the professional engineer, architect, or firm will provide in the areas of structural, fire and life safety, mechanical, plumbing, and electrical plan review for recreational park trailers; and

(3) A summary of the professional's or firm's expertise and qualifications to review plans in the areas identified by the description of services.

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NEW SECTION

WAC 296-150P-0540 How will I know whether I am authorized to approve design plans? Within 60 days after you submit the information requested in WAC 296-150P-0530, we will send you a letter either approving or denying your authorization request.

(1) If we approve your request, your name is added to the list of licensed professionals and firms authorized to approve design plans.

(a) We will authorize a professional to approve portions of a design plan within his or her area of expertise; and

(b) We will authorize an engineering or architectural firm to approve plans if the firm employs or contracts with professionals within the area of expertise necessary for the design plan.

(2) If we do not approve your request, we will notify you in writing why we are denying your request for authorization. If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree. (See WAC 296-150P-0100.)

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NEW SECTION

WAC 296-150P-0550 How long is a licensed professional or firms authorization effective? Your authorization to approve design plans is effective until your license expires, is revoked, or is suspended.

(1) You must notify us of your license renewal at least 15 days before your license expires, to prevent your name from being removed from our licensed professional and firm list.

(2) You must notify us immediately if your license is revoked or suspended. Your name is then removed from the list of licensed professionals and firms authorized to approve design plans.

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NEW SECTION

WAC 296-150P-0560 What information must a manufacturer send to the department when a professional or firm does the design-plan approval? You must send us the following information in your approved design plans:

(1) A completed departmental design-plan approval request form;

(2) A set of design plan drawings, specifications, engineering analysis, and test results and procedures necessary for a complete code evaluation of the design. When required by chapter 196-23 or 308-12 WAC, design documents prepared by licensed professionals must be sealed;

(3) A cover sheet on the design plan noting which professional approved each portion of the design plan;

(4) A copy of the authorization letter from us;

(5) The design plan fee for design plans approved by professionals or firms. (See WAC 296-150P-3001.)

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NEW SECTION

WAC 296-150P-0570 What happens after we receive the professional or firm approved design plan and information? (1) After we receive your approved design plans and information, we will review the information and assign a plan approval number. We will send a copy of the design plan with the plan approval number to the manufacturer.

(2) We may periodically audit design plans approved by a professional engineer, architect, or firm to ensure compliance with design plan requirements. The department's periodic audit should not be construed as certifying that the plans are safe.

(3) If the audit reveals that the design plans approved by the professionals and firms do not comply with this chapter, you will be notified and required to pay our fees for review and approval of the design plans. (See WAC 296-150P-3000.)

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NEW SECTION

WAC 296-150P-0580 Do you have a list of professionals or firms that are authorized to approve design plans? Yes. We will maintain a list of the licensed professionals and firms that are authorized to approve design plans for conversion vendor units.

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NEW SECTION

WAC 296-150P-0590 Who approves addendums to design plans approved by a professional or firm? (1) You must have the professional or firm approve an addendum to a design plan, if they initially approved your design plan.

(2) If the professional or firm who approved your design plan is no longer on the department list, you may have us approve your addendum.

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NEW SECTION

WAC 296-150P-3001 Recreational park trailer fees for design plans approved by a professional or firm. Design plans approved by a professional or firm under this chapter will be charged a fee of \$30.00.

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OTS-3541.3

NEW SECTION

WAC 296-150R-0315 Who can approve design plans? (1) Comprehensive design plans for recreational vehicles can be approved by us or

by a licensed professional or firm authorized by us. (See WAC 296-150R-0520 and 296-150R-0530.)

(2) All design plans for quality control manuals must be reviewed and approved by the department.

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NEW SECTION

WAC 296-150R-0520 Who can be authorized to approve design plans?

(1) A professional engineer, architect, or firm licensed by the state of Washington according to the Engineers Registration Act, chapter 18.43 RCW and/or the Architects Registration Act, chapter 18.08 RCW; or

(2) A professional engineer, architect, or firm licensed in another state that has licensing or certification requirements that meet or exceed Washington requirements.

(3) A professional cannot approve quality control plans.

[]

NEW SECTION

WAC 296-150R-0530 What information must a professional or firm provide to be authorized to approve design plans? (1) Name, a copy of your certificate of registration or authority, and address of the professional engineer, architect, or firm; and

(2) A description of the services the professional engineer, architect, or firm will provide in the areas of structural, fire and life safety, mechanical, plumbing, and electrical plan review for recreational vehicles; and

(3) A summary of the professional's or firm's expertise and qualifications to review plans in the areas identified by the description of services.

[]

NEW SECTION

WAC 296-150R-0540 How will I know whether I am authorized to approve design plans? Within 60 days after you submit the information requested in WAC 296-150R-0530, we will send you a letter either approving or denying your authorization request.

(1) If we approve your request, your name is added to the list of licensed professionals and firms authorized to approve design plans.

(a) We will authorize a professional to approve portions of a design plan within his or her area of expertise; and

(b) We will authorize an engineering or architectural firm to approve plans if the firm employs or contracts with professionals within the area of expertise necessary for the design plan.

(2) If we do not approve your request, we will notify you in writing why we are denying your request for authorization. If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree. (See WAC 296-150R-0100.)

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NEW SECTION

WAC 296-150R-0550 How long is a licensed professional or firms authorization effective? Your authorization to approve design plans is effective until your license expires, is revoked, or is suspended.

(1) You must notify us of your license renewal at least 15 days before your license expires to prevent your name from being removed from our licensed professional and firm list.

(2) You must notify us immediately if your license is revoked or suspended. Your name is then removed from the list of licensed professionals and firms authorized to approve design plans.

[]

NEW SECTION

WAC 296-150R-0560 What information must a manufacturer send to the department when a professional or firm does the design-plan approval? You must send us the following information in your approved design plans:

(1) A completed departmental design-plan approval request form;

(2) A set of design plan drawings and specifications necessary for a complete code evaluation of the design;

(3) A cover sheet on the design plan noting which professional approved each portion of the design plan;

(4) A copy of the authorization letter from us; and

(5) The design plan fee for design plans approved by professionals or firms. (See WAC 296-150R-3001.)

[]

NEW SECTION

WAC 296-150R-0570 What happens after we receive the professional or firm approved design plan and information? (1) After we receive your approved design plans and information, we will review the information and assign a plan approval number. We will send a copy of the design plan with the plan approval number to the manufacturer.

(2) We may periodically audit design plans approved by a professional engineer, architect, or firm to ensure compliance with design plan requirements. The department's periodic audit should not be construed as certifying that the plans are safe.

(3) If the audit reveals that the design plans approved by the professionals and firms do not comply with this chapter, you will be

notified and required to pay our fees for review and approval of the design plans. (See WAC 296-150R-3000.)

[]

NEW SECTION

WAC 296-150R-0580 Do you have a list of professionals or firms that are authorized to approve design plans? Yes. We will maintain a list of the licensed professionals and firms that are authorized to approve design plans for conversion vendor units.

[]

NEW SECTION

WAC 296-150R-0590 Who approves addendums to design plans approved by a professional or firm? (1) You must have the professional or firm approve an addendum to a design plan, if they initially approved your design plan.

(2) If the professional or firm who approved your design plan is no longer on the department list, you may have us approve your addendum.

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NEW SECTION

WAC 296-150R-3001 Recreational vehicle fees for design plans approved by a professional or firm. Design plans approved by a professional or firm under this chapter will be charged a fee of \$15.00.

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OTS-3542.3

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

WAC 296-150V-0310 Who can approve design plans? (~~Your design plan must be approved by the department.~~) (1) Design plans for conversion vendor units can be approved by us or by a licensed professional or firm authorized by us. (See WAC 296-150V-0420 and 296-150V-0430.)

(2) All design plans for medical units must be reviewed and approved by the department.

[Statutory Authority: Chapter 43.22 RCW. WSR 99-18-069, § 296-150V-0310, filed 8/31/99, effective 10/1/99.]

NEW SECTION

WAC 296-150V-0420 Who can be authorized to approve design plans?

(1) A professional engineer, architect or firm licensed by the state of Washington according to the Engineers Registration Act, chapter 18.43 RCW and/or the Architects Registration Act, chapter 18.08 RCW; or

(2) A professional engineer, architect or firm licensed in another state that has licensing or certification requirements that meet or exceed Washington requirements.

(3) A professional cannot approve medical units.

[]

NEW SECTION

WAC 296-150V-0430 What information must a professional or firm provide to be authorized to approve design plans? (1) Name, a copy of your certificate of registration or authority, and address of the professional engineer, architect, or firm; and

(2) A description of the services the professional engineer, architect, or firm will provide in the areas of fire and life safety, mechanical, plumbing, and electrical plan review for conversion vendor units; and

(3) A summary of the professional's or firm's expertise and qualifications to review plans in the areas identified by the description of services.

[]

NEW SECTION

WAC 296-150V-0440 How will I know whether I am authorized to approve design plans? Within 60 days after you submit the information requested in WAC 296-150V-0430, we will send you a letter either approving or denying your authorization request.

(1) If we approve your request, your name is added to the list of licensed professionals and firms authorized to approve design plans.

(a) We will authorize a professional to approve portions of a design plan within his or her area of expertise; and

(b) We will authorize an engineering or architectural firm to approve plans if the firm employs or contracts with professionals within the area of expertise necessary for the design plan.

(2) If we do not approve your request, we will notify you in writing why we are denying your request for authorization. If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree. (See WAC 296-150V-0100.)

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NEW SECTION

WAC 296-150V-0450 How long is a licensed professional or firms authorization effective? Your authorization to approve design plans is effective until your license expires, is revoked, or is suspended.

(1) You must notify us of your license renewal at least 15 days before your license expires, to prevent your name from being removed from our licensed professional and firm list.

(2) You must notify us immediately if your license is revoked or suspended. Your name is then removed from the list of licensed professionals and firms authorized to approve design plans.

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NEW SECTION

WAC 296-150V-0460 What information must a manufacturer send to the department when a professional or firm does the design-plan approval? You must send us the following information in your approved design plans:

(1) A completed departmental design-plan approval request form;

(2) A set of design plan drawings, specifications, engineering analysis, and test results and procedures necessary for a complete code evaluation of the design. When required by chapter 196-23 or 308-12 WAC, design documents prepared by licensed professionals must be sealed;

(3) A cover sheet on the design plan noting which professional approved each portion of the design plan;

(4) A copy of the authorization letter from us; and

(5) The design plan fee for design plans approved by professionals or firms. (See WAC 296-150V-3001.)

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NEW SECTION

WAC 296-150V-0470 What happens after we receive the professional or firm approved design plan and information? (1) After we receive your approved design plans and information, we will review the information and assign a plan approval number. We will send a copy of the design plan with the plan approval number to the manufacturer.

(2) We may periodically audit design plans approved by a professional engineer, architect, or firm to ensure compliance with design plan requirements. The department's periodic audit should not be construed as certifying that the plans are safe.

(3) If the audit reveals that the design plans approved by the professionals and firms do not comply with this chapter, you will be

notified and required to pay our fees for review and approval of the design plans. (See WAC 296-150V-3000.)

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NEW SECTION

WAC 296-150V-0480 Do you have a list of professionals or firms that are authorized to approve design plans? Yes. We will maintain a list of the licensed professionals and firms that are authorized to approve design plans for conversion vendor units.

[]

NEW SECTION

WAC 296-150V-0490 Who approves addendums to design plans approved by a professional or firm? (1) You must have the professional or firm approve an addendum to a design plan, if they initially approved your design plan.

(2) If the professional or firm who approved your design plan is no longer on the department list, you may have us approve your addendum.

[]

NEW SECTION

WAC 296-150V-3001 Conversion vendor units and medical units— Fees for design plans approved by a professional or firm. Design plans approved by a professional or firm under this chapter will be charged a fee of \$81.10.

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WSR 23-01-070

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed December 15, 2022, 9:21 a.m., effective December 15, 2022, 9:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order amends chapter 16-470 WAC, Quarantine—Agricultural pests to expand the boundaries of the internal quarantine for the Japanese beetle within Washington state. The quarantine prohibits the regulated articles located inside the quarantine area from moving outside of it. The quarantine prevents potentially infested host material from being transported to other parts of the state, thereby limiting the spread of Japanese beetles and protecting noninfested areas from infestation.

Citation of Rules Affected by this Order: Amending WAC 16-470-105.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

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: Immediate amendment of the rule is necessary for the general welfare of the public. Japanese beetle (*Popillia japonica* Newman) is a highly invasive plant pest native to Japan. It has been known to cause severe damage to more than 300 species of ornamental and agricultural plants, including roses, grapes, and hops. Adult beetles damage plants by skeletonizing foliage and feeding on buds, flowers, and fruit. The larvae also damage the roots of plants such as turf grass. Although this feeding does not always kill the plant, it weakens it and may reduce the plant's overall yield.

In 2021, the department caught 24,048 Japanese beetles in the current internal quarantine area. Throughout 2021 and 2022, the department took extensive measures to reduce the spread of the beetle, with an ultimate goal of eradicating it. Measures that have been taken include treating residential and public properties with pesticide, trapping, and establishing an internal quarantine. Despite these efforts, by the end of the 2022 trapping season, numerous Japanese beetles, which indicate a reproducing population, were caught outside of the currently established internal quarantine area. Due to this, immediate action is needed to expand the internal Japanese beetle quarantine to more accurately reflect the area of infestation in order to prevent the beetles from spreading into noninfested areas.

If the Japanese beetle becomes permanently established throughout the state, it could severely threaten several of Washington's agricultural industries. The threat this pest poses is particularly concerning due to the area in which the detections have occurred. There are a number of farms and nurseries in close proximity to the detection sites, growing plant species known to be targeted by Japanese beetle. Not only do these beetles pose a threat to the plants themselves, but if established, they have the potential to impact the availability of export markets for agricultural commodities grown in the area. Expanding the Japanese beetle internal quarantine will help prevent the spread of this invasive pest and protect Washington's agricultural industries, as well as maintain access to national and international markets.

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

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

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

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

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

Date Adopted: December 15, 2022.

Derek I. Sandison
Director

OTS-4226.1

AMENDATORY SECTION (Amending WSR 22-17-068, filed 8/15/22, effective 9/15/22)

WAC 16-470-705 Areas under quarantine. (1) Exterior: The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

(a) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

(i) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in WAC 16-470-715; and

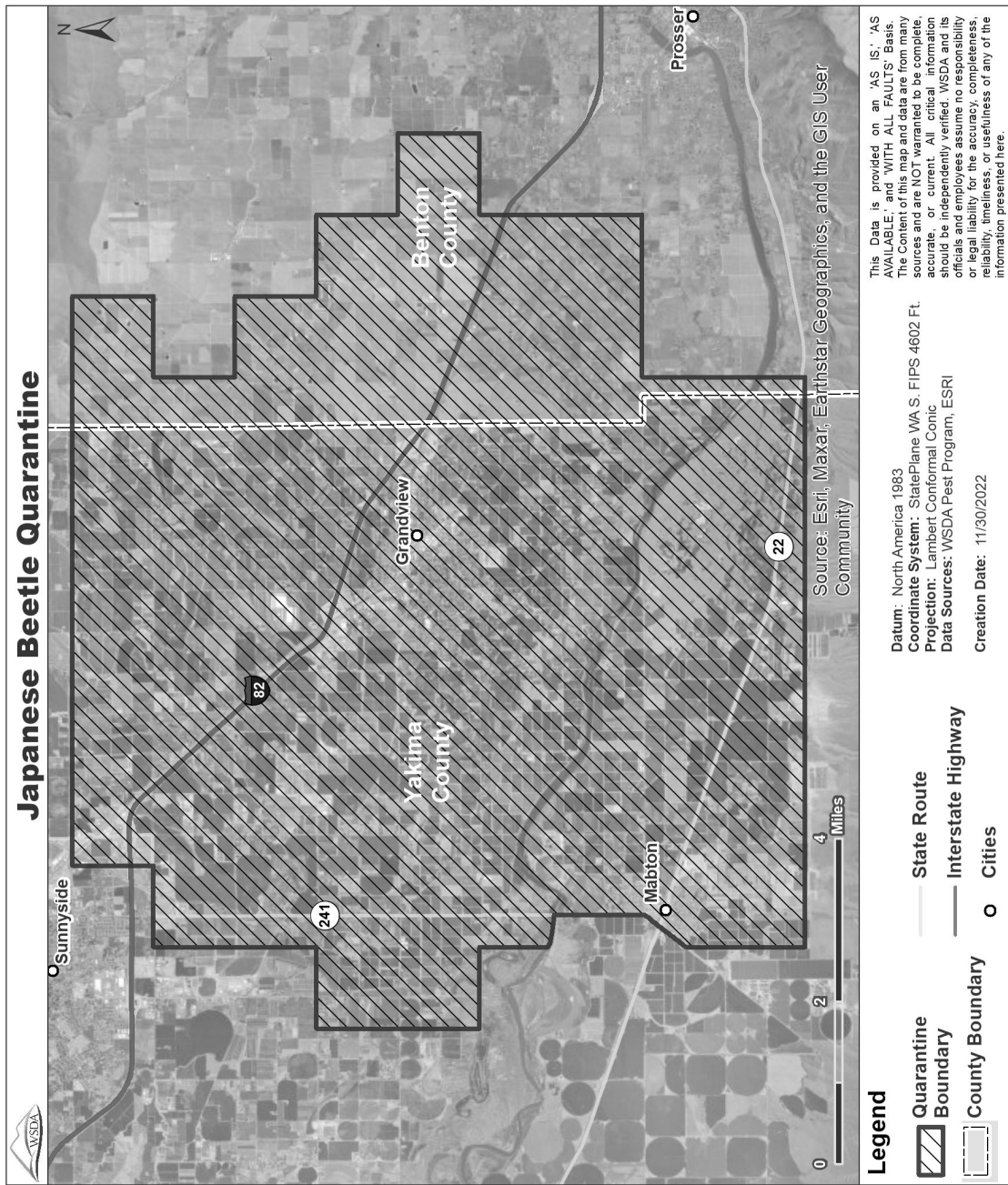
(ii) Annual surveys are conducted in such counties and the results of these surveys are negative for Japanese beetle; and

(iii) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

(b) A plant health official of any state may request exemption of one or more counties under this subsection. The request must be in writing, and it must state the area surveyed, the survey method, personnel conducting the survey, and dates of any previous Japanese beetle infestations in that county.

(2) Interior: Within the state of Washington, those areas where infestations of Japanese beetle exist are declared to be under quarantine. These areas include the portion of Yakima and Benton counties designated as follows: Beginning within Yakima County at latitude

N46°18'8" and longitude W120°0'26"; thence easterly ((across the Yakima-Benton County line to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°16'21" and longitude W119°51'40"; thence easterly to longitude W119°50'25"; thence southerly to latitude N46°13'44" and longitude W119°50'27"; thence westerly to latitude N46°13'44" and longitude W119°51'42"; thence southerly to latitude N46°12'00" and longitude W119°51'42"; thence westerly across the Yakima-Benton County line to latitude N46°12'3" and longitude W119°59'14"; thence northerly to latitude N46°14'39" and longitude W119°59'12"; thence westerly to longitude W120°0'28")) to latitude N46°18'8" and longitude W119°59'11"; thence northerly to latitude N46°19'0" and longitude W119°59'10"; thence easterly across the Yakima-Benton County line to latitude N46°18'57" and longitude W119°50'23"; thence southerly to latitude N46°18'5" and longitude W119°50'24"; thence westerly to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°17'13" and longitude W119°51'40"; thence easterly to latitude N46°17'13" and longitude W119°50'25"; thence southerly to latitude N46°16'21" and longitude W119°50'25"; thence easterly to latitude N46°16'20" and longitude W119°49'10"; thence southerly to latitude N46°15'28" and longitude W119°49'11"; thence easterly to latitude N46°15'28" and longitude W119°47'56"; thence southerly to latitude N46°14'35" and longitude W119°47'56"; thence westerly to latitude N46°14'36" and longitude W119°49'11"; thence southerly to latitude N46°12'52" and longitude W119°49'13"; thence westerly to latitude N46°12'53" and longitude W119°51'43"; thence southerly to latitude N46°11'8" and longitude W119°51'44"; thence westerly across the Yakima-Benton County line to latitude N46°11'11" and longitude W120°0'29"; thence northerly to the Yakama Nation Reservation boundary line; thence northerly and easterly, and turning westerly along the Yakama Nation Reservation boundary line to longitude W120°0'28"; thence northerly to latitude N46°14'39" and longitude W120°0'28"; thence westerly to latitude N46°14'40" and longitude W120°1'43"; thence northerly to latitude N46°16'24" and longitude W120°1'42"; thence easterly to latitude N46°16'24" and longitude W120°0'27"; thence northerly to the point of beginning.



[Statutory Authority: RCW 17.24.011 and 17.24.041. WSR 22-17-068, § 16-470-705, filed 8/15/22, effective 9/15/22. Statutory Authority: Chapter 17.24 RCW. WSR 00-23-098, § 16-470-705, filed 11/21/00, effective 12/22/00; WSR 90-15-042 (Order 2049), § 16-470-705, filed 7/16/90, effective 8/16/90.]

WSR 23-01-080

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed December 16, 2022, 7:35 a.m., effective December 16, 2022, 7:35 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: New WAC 246-300-001 Licensed health care facilities and coronavirus disease 2019 (COVID-19). Extending the adoption of an emergency rule that establishes that all health care facilities licensed by the department of health (department) must comply with state and federal statutes, administrative rules, lawful orders, and other legal requirements relating to the operation of the facility and the control or prevention of the spread of COVID-19, including orders issued by the governor, by the secretary of health, by a local board of health, and by a local health officer. This continues the emergency rule originally filed on December 23, 2021, as WSR 22-02-009, and extended on April 22, 2022, and August 19, 2022, as WSR 22-10-007 and WSR 22-17-098, respectively.

Citation of Rules Affected by this Order: New WAC 246-300-001.

Statutory Authority for Adoption: RCW 43.70.040, 18.46.060, 70.41.030, 70.42.220, 70.127.120, 70.230.020, 70.230.090, 71.12.670, and 71.24.037.

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: COVID-19 activity in Washington state continues to pose a high risk to vulnerable populations and health care workers, particularly those receiving and providing care in health care facilities and similar congregate care facilities. While Governor Inslee has ended the state of emergency and rescinded remaining emergency orders, Secretary of Health Order 20-03.10 regarding face coverings statewide remains in effect. Clarifying the applicability of state and federal statutes, administrative rules, lawful orders, and other legal requirements to licensed health care facilities will assist facilities to comply with these requirements and will assist the department in its efforts to ensure the health and safety of the workers, recipients of services, and visitors in those facilities.

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 1, 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 0, Repealed 0.

Date Adopted: December 16, 2022.

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

OTS-3389.3

**Chapter 246-300 WAC
GENERAL PROVISIONS—FACILITIES**

NEW SECTION

WAC 246-300-001 Licensed health care facilities and coronavirus disease 2019 (COVID-19). (1) This section applies to all health care facility types licensed by the department of health under chapters 18.46, 70.41, 70.42, 70.127, 70.230, 71.12, and 71.24 RCW.

(2) Every facility subject to this rule must comply with state and federal statutes, administrative rules, lawful orders, and other legal requirements relating to the operation of the facility and the control or prevention of the spread of coronavirus disease 2019 (COVID-19).

(3) Lawful orders include, but are not limited to, orders issued by the governor under chapter 43.06 RCW, by the secretary of health under chapter 43.70 RCW, or by a local board of health or local health officer under chapter 70.05, 70.08, or 70.24 RCW or chapter 246-100 WAC.

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WSR 23-01-081
EMERGENCY RULES
STATE BOARD OF HEALTH

[Filed December 16, 2022, 7:43 a.m., effective December 16, 2022, 7:43 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-101-017 Novel coronavirus (SARS-CoV-2), coronavirus disease 2019 (COVID-19) reporting. The Washington state board of health has adopted a ninth emergency rule to continue to designate COVID-19 as a notifiable condition and establish reporting requirements for health care providers, health care facilities, laboratories, local health jurisdictions, and the department of agriculture to report certain data with COVID-19 test results, including relevant demographic details (e.g., patient's age, race, ethnicity, sex) and testing information. The rule allows for certain waivers by a local health officer. The rule establishes what testing and demographic data need to be reported as well as the timing and mechanism of reporting in accordance with P.L. 116-136, § 18115(a), the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Citation of Rules Affected by this Order: New WAC 246-101-017.

Statutory Authority for Adoption: RCW 43.20.050 (2)(f).

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: The immediate adoption of a rule to designate COVID-19 as a notifiable condition and require the reporting of demographic, testing, and other relevant data by health care providers, health care facilities, laboratories, local health jurisdictions, and the department of agriculture for each COVID-19 test is necessary to comply with federal law and related guidance. Immediate adoption of this rule is necessary for the preservation of the public health, safety, and general welfare of the state of Washington during the global COVID-19 pandemic.

The CARES Act requires "every laboratory that performs or analyzes a test that is intended to detect SARS-CoV-2 or to diagnose a possible case of COVID-19" to report the results from each such test to the Secretary of the United States Department of Health and Human Services (HHS). The act authorizes the HHS Secretary to prescribe the form, manner, timing, and frequency of such reporting. The HHS Secretary released laboratory data-reporting guidance for COVID-19 on June 4, 2020, and later updated the guidance on January 8, 2021, and March 8, 2022. The guidance requires all COVID-19 test results and accompanying data be reported through existing state, territorial, local, and tribal public health data-reporting methods. Of these requirements, any person or entity ordering a test, registering an individual to be tested, collecting a specimen, or performing a test should make every reasonable effort to collect complete demographic data of the patient (e.g., ethnicity, race, age, sex). Updated guidance specifies which test results must be reported by entities based on entity and test type, and refines the list of reportable data components that must accompany test results.

In September 2020, the Centers for Medicare and Medicaid Services (CMS) published an interim final rule in Federal Register 54826, Volume 85, Number 171, to update requirements for reporting SARS-CoV-2 test results by laboratories. The interim final rule states all laboratories conducting SARS-CoV-2 testing and reporting patient-specific results, including hospital laboratories, nursing homes, and other facilities conducting testing for COVID-19, who fail to report information required under the CARES Act will be subject to monetary penalties. The interim final rules became effective September 2, 2020.

Adoption of a ninth emergency rule ensures continued compliance with the CARES Act, including updating HHS guidance and CMS requirements and maintaining the necessary public health response to COVID-19.

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

Date Adopted: November 9, 2022.

Michelle A. Davis
Executive Director

OTS-2485.7

NEW SECTION

WAC 246-101-017 Novel coronavirus (SARS-CoV-2), coronavirus disease 2019 (COVID-19) reporting. (1) Designating coronavirus disease 2019 (COVID-19), and the novel coronavirus (SARS-CoV-2) that causes it, as a notifiable condition, and requiring the reporting of race and ethnicity and other essential data by health care providers, health care facilities, laboratories, and local health departments related to cases of COVID-19 are necessary to ensure that public health agencies receive complete notice of COVID-19 cases and to address racial and ethnic inequities in morbidity and mortality among individuals with the disease. This rule is also necessary to align with the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and the U.S. Department of Health and Human Services laboratory data reporting requirements for COVID-19 testing, which require reporting of COVID-19 data to the appropriate state or local health department and the U.S. Department of Health and Human Services, and further, that any person or entity ordering a diagnostic or serologic test, collecting a specimen, or performing a test should make every reasonable effort to collect complete demographic information and include such data when or-

dering a laboratory test to enable the entities performing the test to report these data to state, territorial, local, and tribal public health departments. During this global pandemic, immediate adoption of a rule requiring notice of novel coronavirus (SARS-CoV-2) as a notifiable condition and reporting of race, ethnicity, and other essential data is necessary for the preservation of public health, safety, and general welfare.

(2) For the purpose of this section:

(a) "Animal case" means an animal, alive or dead, with a diagnosis of novel coronavirus (SARS-CoV-2) made by a veterinarian licensed under chapter 18.92 RCW, veterinary medical facility licensed under chapter 18.92 RCW, or veterinary laboratory as defined under chapter 16.70 RCW based on clinical criteria, or laboratory criteria, or both.

(b) "Antigen test" means an immunoassay test that detects the presence or absence of SARS-CoV-2 protein to indicate current SARS-CoV-2 infection.

(c) "Business day" means any day that the department is open for business.

(d) "Health care facility" means:

(i) Any assisted living facility licensed under chapter 18.20 RCW; birthing center licensed under chapter 18.46 RCW; nursing home licensed under chapter 18.51 RCW; hospital licensed under chapter 70.41 RCW; adult family home licensed under chapter 70.128 RCW; ambulatory surgical facility licensed under chapter 70.230 RCW; private establishment licensed under chapter 71.12 RCW; or enhanced service facility licensed under chapter 70.97 RCW; and

(ii) Clinics or other settings where one or more health care providers practice.

(e) "Immediately" means without delay, twenty-four hours a day, seven days a week.

(f) "Nucleic acid amplification test" or "NAAT" means a viral diagnostic test including reverse transcription polymerase chain reaction (RT-PCR), transcription mediated amplification (TMA), loop-mediated isothermal amplification (LAMP), strand displacement amplifications (SDA), and other NAATs authorized for emergency use by the U.S. Food and Drug Administration for the detection for SARS-CoV-2.

(g) "Reference laboratory" means a laboratory licensed inside or outside of Washington state that receives a specimen from another licensed laboratory and performs one or more tests on that specimen.

(h) "Secure electronic data transmission" means electronic communication and accounts developed and maintained to prevent unauthorized access, loss, or compromise of sensitive information including, but not limited to, secure file transfer, secure facsimile, a health information exchange authorized under RCW 41.05.039, and the secure electronic disease surveillance system.

(i) "Secure electronic disease surveillance system" means the secure electronic data transmission system maintained by the department and used by local health departments to submit notifications, investigation reports, and outbreak reports under this chapter.

(j) "Waived test" has the same meaning as WAC 246-338-010

(45) (b).

(k) Patient's ethnicity shall be identified by the patient and reported using one of the following categories:

(i) Hispanic or Latino;

(ii) Non-Hispanic or Latino;

(iii) Unknown; or

(iv) Asked, but unknown.

(1) Patient's race shall be identified by the patient and reported using one or more of the following categories:

- (i) American Indian or Alaska Native;
- (ii) Asian;
- (iii) Black or African American;
- (iv) Native Hawaiian or Other Pacific Islander;
- (v) White;
- (vi) Unknown; or
- (vii) Asked, but unknown.

(3) Unless a health care facility has assumed the notification duties of the principal health care provider under subsection (7) of this section, or a laboratory director in a health care facility where laboratory point-of-care testing occurs under a certificate of waiver as described in WAC 246-338-020 has fulfilled the laboratory notification requirements as described in subsection (9) of this section, the principal health care provider shall submit individual case reports of novel coronavirus (SARS-CoV-2) to the local health department via secure electronic data transmission using a file format or template specified by the department:

(a) Within 24 hours of receiving a laboratory confirmed positive test result; and

(b) Following the requirements of this section, WAC 246-101-105, and WAC 246-101-120; excluding the requirements in WAC 246-101-105(10).

(4) The local health officer may waive or partially waive subsection (3) or (5) of this section, or both if the local health officer determines individual case reports of novel coronavirus (SARS-CoV-2) submitted by health care providers or health care facilities are not needed and are not promoting public health for any reason including, but not limited to, the local health department being unable to process the volume of case reports. The local health officer shall notify health care providers and health care facilities upon their determination.

(5) A health care facility shall submit individual case reports of novel coronavirus (SARS-CoV-2) to the local health department via secure electronic data transmission using a file format or template specified by the department:

(a) Within 24 hours of receiving a laboratory confirmed positive test result; and

(b) Following the requirements of this section, WAC 246-101-305, and WAC 246-101-320; excluding the requirement in WAC 246-101-305(4).

(6) Health care providers and health care facilities shall provide the local health department with the information identified in Column A of Table 1 in this section for individual case reports concerning novel coronavirus (SARS-CoV-2).

(7) A health care facility may assume the notification requirements established in this section for a health care provider practicing within the health care facility.

(8) A health care facility shall not assume the notification requirements established in this section for a laboratory that is a component of the health care facility.

(9) A principal health care provider is not required to submit individual case reports of novel coronavirus (SARS-CoV-2) to the local health department when the provider practices in a health care facility where laboratory point-of-care testing occurs under a certificate of waiver as described in WAC 246-338-020 and the laboratory director

has fulfilled the laboratory notification requirements under subsections (12), (13), and (14) of this section.

(10) Health care providers and health care facilities shall provide the laboratory with the information identified in Column A of Table 1 in this section for each test ordered for novel coronavirus (SARS-CoV-2).

(11) For specimens associated with novel coronavirus (SARS-CoV-2) sent to a laboratory outside of Washington state, health care providers, health care facilities, and laboratories shall provide the out-of-state laboratory with a copy of chapter 246-101 WAC if they arrange for the out-of-state laboratory to report the test results consistent with WAC 246-101-105 (5)(a), 246-101-205 (1)(f)(i), or 246-101-305 (1)(e)(i) to the local health department as required under this subsection.

(12) For laboratories licensed to conduct moderate or high complexity testing, the laboratory director shall submit individual laboratory reports of positive, negative, and inconclusive test results from all NAAT and antigen tests performed for novel coronavirus (SARS-CoV-2) to the local health department:

(a) Via secure electronic data transmission using a file format or template specified by the department;

(b) Within 24 hours of results being known or determined; and

(c) Following the requirements of this section, WAC 246-101-205, and WAC 246-101-230; excluding the requirements in WAC 246-101-205(3).

(13) For laboratories licensed to conduct waived tests under a certificate of waiver, a laboratory director shall submit individual laboratory reports of positive test results from all waived tests, excluding antibody testing, for novel coronavirus (SARS-CoV-2) to the local health department:

(a) Via secure electronic data transmission using a file format or template specified by the department;

(b) Within 24 hours of results being known or determined; and

(c) Following the requirements of this section, WAC 246-101-205, and 246-101-230; excluding the requirements in WAC 246-101-205(3).

(14) A laboratory director shall provide the information identified in Column B of Table 1 in this section to the local health department with each novel coronavirus (SARS-CoV-2) laboratory report.

(15) A laboratory director, upon request by the local health department or the department, shall submit novel coronavirus (SARS-CoV-2) presumptive positive isolates or, if no isolate is available, the specimen associated with the presumptive positive result to the Washington state public health laboratories within two business days of request. Specimens shall be sent to:

Washington State Public Health Laboratories
Washington State Department of Health
1610 N.E. 150th Street
Shoreline, WA 98155

(16) If the local health department or the department requests a specimen under subsection (15) of this section, a laboratory director shall provide the Washington state public health laboratories with the information identified in Column C of Table 1 in this section with each specimen submitted.

(17) When referring a specimen to another laboratory for a test for novel coronavirus (SARS-CoV-2), a laboratory director shall provide the reference laboratory with the information identified in Column D of Table 1 in this section for each test referral.

(18) The department of agriculture shall submit individual case reports for each animal case of novel coronavirus (SARS-CoV-2) to the department via secure electronic data transmission using a file format or template specified by the department within twenty-four hours of being notified of the animal case.

(19) The department of agriculture shall call the department and confirm receipt immediately after submitting a case report for each animal case of novel coronavirus (SARS-CoV-2).

(20) When the department of agriculture submits information under subsection (18) of this section, the department shall:

(a) Consult with the department of agriculture on all animal cases; and

(b) Notify the local health department of animal cases submitted to the department.

(21) A local health department shall, using a secure electronic disease surveillance system:

(a) Notify the department within one business day upon receiving a case, laboratory, or animal case report of positive test results, excluding antibody testing, for novel coronavirus (SARS-CoV-2); and

(b) Notify the department within five business days upon receiving a laboratory report of negative or inconclusive test results for novel coronavirus (SARS-CoV-2); and

(c) Submit individual investigation reports of novel coronavirus (SARS-CoV-2) to the department within one business day upon completing the case investigation.

(22) Notifications required under subsection (21)(a) and (b) of this section must include the information identified in Column E of Table 1 in this section.

(23) Investigation reports required under subsection (21)(c) of this section must include the information identified in Column F of Table 1 in this section.

(24) A local health department shall, within one business day, reassign cases to the department upon determining the patient who is the subject of the case:

(a) Is a resident of another local health department; or

(b) Resides outside Washington state.

(25) A local health department, upon consultation with the department, may forward novel coronavirus (SARS-CoV-2) individual laboratory or case reports submitted by laboratories, health care providers, and health care facilities to the department for data entry and processing.

(26) The local health officer or the state health officer may request additional information of epidemiological or public health value when conducting a case investigation or otherwise for prevention and control of a specific notifiable condition.

(27) Health care providers, health care facilities, laboratories, and the department of agriculture may provide, via secure electronic data transmission using a file format or template specified by the department, additional health information, demographic information, or infectious or noninfectious condition information than is required under this section to the department, local health department, or both when it determines that the additional information will aid the public health authority in protecting the public's health and preventing the spread of novel coronavirus (SARS-CoV-2).

Table 1

Required Reporting for Health Care Providers, Health Care Facilities, Laboratories, and Local Health Departments

	Column A: Health care providers and health care facilities shall provide the following information to the local health department with each case report, and to the laboratory with each test ordered:	Column B: Laboratory directors shall provide the local health department with the following information with each laboratory report:	Column C: Laboratory directors shall provide the department with the following information with each specimen submitted:	Column D: Laboratory directors shall provide the following information when referring a specimen to another laboratory:	Column E: Local health department notifications to the department must include:	Column F: Local health department investigation reports to the department must include:
Patient's name (last name, first name, middle initial)	X	X	X	X	X	X
Patient's street address, including residence zip code and county	X	X	X	X	X	X
Patient's telephone number with area code	X	X	X	X	X	X
Patient's age and date of birth	X	X	X	X	X	X
Patient's ethnicity, using the categories described in subsection (2)(k) of this section	X	X	X	X	X	X
Patient's race, using the categories described in subsection (2)(l) of this section	X	X	X	X	X	X
Patient's sex	X	X	X	X	X	X
Test ordered, performed, and resulted, using appropriate LOINC codes as defined by the Laboratory in Vitro Diagnostics (LIVD) Test Code Mapping for SARS-CoV-2 tests provided by the CDC		X	X	X	X*	X*
Test result (values) using appropriate SNOMED-CT codes as defined by the LIVD Test Code Mapping for SARS-CoV-2 tests provided by the CDC		X	X	X	X*	X*

	Column A: Health care providers and health care facilities shall provide the following information to the local health department with each case report, and to the laboratory with each test ordered:	Column B: Laboratory directors shall provide the local health department with the following information with each laboratory report:	Column C: Laboratory directors shall provide the department with the following information with each specimen submitted:	Column D: Laboratory directors shall provide the following information when referring a specimen to another laboratory:	Column E: Local health department notifications to the department must include:	Column F: Local health department investigation reports to the department must include:
Test result date (date format)		X	X		X*	X*
Device identifier		X	X		X*	X*
Accession number or specimen ID		X	X		X*	X*
Date of specimen collection (date format)	X	X	X	X	X	X
Specimen source, using appropriate SNOMED-CT, SPM4 codes, or equivalently detailed alternative codes		X	X	X	X*	X*
Ordering organization or health care provider's name	X	X	X	X	X	X
Ordering organization or health care provider's National Provider Identifier (as applicable) and affiliated organization (specific facility)	X	X	X	X	X	X
Ordering organization or health care provider's telephone number	X	X	X	X	X	X
Ordering organization or health care provider's address including zip code	X	X	X	X	X	X
Performing laboratory or facility name and CLIA number		X	X		X*	X*
Performing laboratory or facility address including zip code		X	X		X*	X*
Performing laboratory or facility phone number		X	X		X*	X*

	Column A: Health care providers and health care facilities shall provide the following information to the local health department with each case report, and to the laboratory with each test ordered:	Column B: Laboratory directors shall provide the local health department with the following information with each laboratory report:	Column C: Laboratory directors shall provide the department with the following information with each specimen submitted:	Column D: Laboratory directors shall provide the following information when referring a specimen to another laboratory:	Column E: Local health department notifications to the department must include:	Column F: Local health department investigation reports to the department must include:
Reporting entity name and CLIA number (or appropriate ID)		X	X	X	X*	X*
Reporting entity address including zip code		X	X	X	X*	X*
Reporting entity phone number		X	X	X	X*	X*
Name and telephone number of the person providing the report	X					
Patient's notifiable condition	X				X	X
Patient's diagnosis of disease or condition	X					
Date specimen received by reporting laboratory		X	X		X*	X*
Type of specimen tested	X	X	X	X	X*	X*
Pertinent laboratory data	X					
Initial notification source					X	X
Date local health department was notified						X
Condition symptom onset date (preferred), or alternatively, diagnosis date						X
Hospitalization status of the patient						X
Whether the patient died during this illness						X
Source or suspected source						X

* Local health departments are not required to submit this information if the notification came from a health care provider or health care facility. All other information indicated in Columns E and F is still required in these instances.

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WSR 23-01-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-281—Filed December 16, 2022, 3:01 p.m., effective December 19, 2022]

Effective Date of Rule: December 19, 2022.

Purpose: The purpose of this emergency rule is to close harvest of green [sea] urchins in Districts 3, 4, 6, and 7.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000N; 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 for green sea urchins in Districts 3, 4, 6, and 7 following the projected attainment of quota in each district. 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: December 16, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000P Commercial sea urchin fishery Effective December 19, 2022, 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.

(3) The maximum cumulative landings for green sea urchins for each weekly fishery opening period is 2,500 pounds per valid designated sea urchin harvest license.

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REPEALER

The following section of Washington Administrative Code is repealed, effective December 19, 2022:

WAC 220-340-75000N Commercial sea urchin fishery. (22-280)

WSR 23-01-094

EMERGENCY RULES

DEPARTMENT OF REVENUE

[Filed December 16, 2022, 3:02 p.m., effective January 1, 2023]

Effective Date of Rule: January 1, 2023.

Purpose: The department of revenue is amending WAC 458-65A-10001 to incorporate the changes under the Revised Uniform Unclaimed Property Act enacted in 2022 legislation, chapter 63, Laws of 2022 (ESSB 5531).

Citation of Rules Affected by this Order: Amending WAC 458-65A-10001.

Statutory Authority for Adoption: RCW 63.30.030.

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 public may be unclear about the status of brief adjudicative proceedings concerning interest and penalties because the rule currently cites to statutory references that will not be in effect as of January 1, 2023.

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

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

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

Date Adopted: December 16, 2022.

Atif Aziz
Rules Coordinator

OTS-4260.1

AMENDATORY SECTION (Amending WSR 18-11-103, filed 5/21/18, effective 6/21/18)

WAC 458-65A-10001 Brief adjudicative proceedings for matters related to penalties and interest imposed under the Revised Uniform Unclaimed Property Act, chapter ((63-29)) 63.30 RCW. (1) **Introduction.** The department of revenue (department) conducts adjudicative proceedings pursuant to chapter 34.05 Revised Code of Washington (RCW), the Administrative Procedure Act (APA). The department will use a brief adjudicative proceeding as provided in RCW 34.05.482 through 34.05.494 to determine the following issues:

- (a) Whether a holder is liable for accrued interest for failure to pay or deliver property to the department (~~((RCW 63.29.340(1)))~~);
- (b) Whether a holder is subject to the (~~(ten)~~) 10 percent penalty for failure to timely file a report or pay or deliver any amounts or property due under a report (~~((RCW 63.29.340(2)))~~);
- (c) Whether a holder is subject to the (~~(ten)~~) 10 percent penalty for an assessment following an examination, of amounts unpaid or property not delivered (~~((RCW 63.29.340(3)))~~);
- (d) Whether a holder is subject to the five percent penalty for failure to timely pay or deliver property due under an assessment (~~((RCW 63.29.340(4)))~~); and
- (e) Whether a holder is subject to the five percent penalty for failing to electronically file a report or pay electronically (~~((RCW 63.29.340(7)))~~).

~~((i))~~ **(2) Waivers.**

~~((a))~~ (a) For subsection (1)(a) of this rule, interest may be waived for circumstances (~~(beyond the person's control)~~) sufficient for waiver or cancellation of interest under RCW (~~(82.32.105 and WAC 458-20-228(10))~~) 63.30.690.

~~((ii))~~ (b) For subsection (1) (b) through (d) of this rule, penalties may be waived (~~(if the penalty or penalties was the result of circumstances beyond the person's control)~~) for circumstances sufficient for waiver or cancellation of penalties under RCW ((82.32.105 and WAC 458-20-228 (9) (a))) 63.30.690.

~~((iii))~~ (c) For subsection (1)(e) of this rule, (~~(whether good cause exists to relieve a holder from the electronic filing or payment requirement under RCW 63.29.170(5) and 63.29.190(1). "Good cause" includes, but is not limited to, a circumstance beyond a person's control sufficient for waiver or cancellation of penalties under RCW 82.32.105 and WAC 458-20-228(9))~~) the department may relieve any holder from the electronic filing requirement for good cause as determined by the department. "Good cause" means:

(i) A circumstance or condition exists that, in the department's judgment, prevents the holder from electronically filing the report due under RCW 62.30.220; or

(ii) The department determines that relief from the electronic filing requirement supports the efficient or effective administration of chapter 63.30 RCW.

~~((2))~~ **(3) Multiple penalties.** The assessment of more than one type of penalty against a holder will be determined in a single brief adjudicative proceeding if those penalties were assessed in the same notice of assessment.

~~((3))~~ **(4) Holder defined.** Holder, as applied throughout this rule means a person obligated to (~~(report, or to deliver)~~) hold for the account of, or to deliver or pay to, the owner, property that is subject to chapter (~~(63.29)~~) 63.30 RCW, the Revised Uniform Unclaimed Property Act (~~(of 1983)~~).

~~((4))~~ **(5) Record in brief adjudicative proceedings.** The record with respect to a holder's petition for review (~~(per)~~) under RCW 34.05.482 through 34.05.485 will consist of:

(a) The holder's unclaimed property report and electronic confirmation of report (~~((RCW 63.29.170))~~);

(b) Application for penalty and interest waiver (~~((RCW 63.29.340 and 63.29.191))~~);

(c) Application for refund of property, interest, or penalty (~~((RCW 63.29.192))~~);

(d) The holder's unclaimed property petition for review (~~((RCW 63.29.193))~~);

(e) Request for relief from electronic filing and payment requirements (~~((RCW 63.29.170 (5) (a) and 63.29.190 (1) (a)))~~);

(f) Department's letter of denial for refund or return of property (~~((RCW 63.29.193))~~), if any; and

(g) All correspondence between the holder and the department regarding the penalty, interest, or refund in question.

~~((5))~~ **(6) Conduct of brief adjudicative proceedings.**

(a) If the department assesses penalties and interest under chapter ~~((63.29))~~ 63.30 RCW, it will notify the holder of the penalties and interest in writing and state the reason for the penalties and interest. To initiate a review of the department's assessment of penalties and interest, the holder must file a written petition for review no later than ~~((thirty days after service of the department's written notice that the holder has been assessed penalties and interest. See RCW 63.29.193))~~ 90 days after the holder receives the determination from the administrator pursuant to RCW 63.30.680 or from any extension of the due date granted by the department, or in the case of a refund or return application, 30 days after the department rejects the application in writing, regardless of any subsequent action by the department to reconsider its initial decision. The period for filing a petition for review under this section may be extended upon a written agreement signed by the holder and the department. See RCW 63.30.730.

(b) A form notice of petition for review is available at dor.wa.gov or by calling ~~((1-800-647-7706))~~ 360-534-1502. The completed form must be mailed, emailed, or faxed to the department at:

Mail:

Washington State Department of Revenue
~~((Special Programs,))~~ Unclaimed Property Section
 P.O. Box 47477
 Olympia, WA 98504-7477

Email: UCP@dor.wa.gov

Fax: 360-534-1498

(c) At the time the petition is filed, the holder must submit to the ~~((special programs,))~~ unclaimed property section, all arguments and any evidence or written material relevant to the matter that the party wishes the presiding officer to consider. No witnesses may offer testimony.

(d) A presiding officer, who will be the unclaimed property ~~((operations))~~ claims and outreach manager of the ~~((special programs division))~~ unclaimed property section or such other person as designated by the director of the department, will conduct brief adjudicative proceedings. The presiding officer for brief adjudicative proceedings will have agency expertise in the subject matter but will not otherwise have participated in the assessment of penalties on the holder.

(e) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis in making a decision.

(f) Within ~~((twenty-one))~~ 21 days of receipt of the holder's petition for review, the presiding officer will enter an initial order, including a brief explanation of the decision per RCW 34.05.485. All orders will be in writing. The initial order will become the department's final order unless a timely petition for review is filed with the department's administrative review and hearings division as provided in subsection ~~((6))~~ (7) of this rule.

~~((6))~~ (7) **Review of initial orders from brief adjudicative proceeding.**

(a) A holder may request a review by the department of an initial order issued per subsection ~~((5))~~ (6) of this rule by filing a written petition for review with the department's administrative review and hearings division within ~~((twenty-one))~~ 21 days of service of the initial order on the holder. See RCW 34.05.488. At the time the petition is filed, the holder must submit to the administrative review and hearings division all arguments and any evidence or written material relevant to the matter that the party wishes the reviewing officer to consider.

(b) An unclaimed property petition for review of an initial order per subsection ~~((5))~~ (6) of this rule is available at dor.wa.gov. ~~((The petition must be sent to one of the following:))~~ The completed petition must be mailed, emailed, or faxed to the department at:

Mail:

Washington State Department of Revenue
Administrative Review and Hearings Division
P.O. Box 47460
6400 Linderson Way S.W.
Olympia, WA 98504-7460

Email: DORARHAdmin@dor.wa.gov

Fax: 360-534-1340

(c) A reviewing officer, who will be either the assistant director of the administrative review and hearings division or such other person as designated by the director, will conduct a brief adjudicative proceeding and determine whether the department's initial order issued per subsection ~~((5))~~ (6) of this rule was ~~((correctly))~~ correct based on the criteria set forth in RCW ~~((63.29.340))~~ 63.30.690. The reviewing officer will review the record and, if needed, convert the proceeding to a formal adjudicative proceeding in accordance with subsection ~~((7))~~ (8) of this rule.

(d) The agency record need not constitute the exclusive basis for the reviewing officer's decision. The reviewing officer will have the authority of a presiding officer.

(e) The reviewing officer will issue a written order that includes a brief statement of the reasons for the decision, within ~~((twenty))~~ 20 days of the date the petition for review was filed. The order will include a notice that judicial review may be available. The order of the reviewing officer represents the final decision of the department.

(f) A request for review is deemed denied if the department does not issue an order on review within ~~((twenty))~~ 20 days after the petition for review is filed, unless a continuance is issued under subsection ~~((11))~~ (12) of this rule. See RCW 34.05.491(5).

~~((7))~~ (8) **Conversion of a brief adjudicative proceeding to a formal proceeding.** The presiding officer or reviewing officer may convert the brief adjudicative proceeding to a formal proceeding at any time on motion of the holder, the department, or the presiding or reviewing officer's own motion.

(a) The presiding or reviewing officer will convert the proceeding when it finds that the use of the brief adjudicative proceeding violates any provision of law, the protection of the public interest requires the agency to give notice to and an opportunity to participate to persons other than the holder and department, or when the is-

sues and interests involved warrant the use of the procedures of RCW 34.05.413 through 34.05.479.

(b) When a proceeding is converted from a brief adjudication to a formal proceeding, the director may become the reviewing officer or may designate a replacement reviewing officer to conduct the formal proceedings upon notice to the holder and the department.

(c) In the conduct of the formal proceedings, WAC 458-20-10002(2) will apply to the proceedings.

~~((8))~~ (9) **Court appeal.**

(a) A holder may appeal a final order of the department under Part V, chapter 34.05 RCW, when a review of the initial decision has been requested under subsection ~~((6))~~ (7) of this rule and all other administrative remedies have been exhausted. See RCW 34.05.534.

(b) A holder who has already paid or delivered property to the department may appeal directly to the superior court of Thurston County for a refund of such payment or property instead of appealing to the department. See RCW ~~((63.29.194))~~ 63.30.740.

~~((9))~~ (10) **Computation of time.** In computing any period of time prescribed by this rule, the day of the act or event after which the designated period is to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays and holidays are excluded in the computation. Service as discussed in subsection ~~((10))~~ (11) of this rule is deemed complete upon mailing.

~~((10))~~ (11) **Service.** All notices and other pleadings or papers filed with the presiding or reviewing officer must be served on the holder, their representatives/agents of record, and the department's representative.

(a) Service is made by one of the following methods:

- (i) In person;
- (ii) By first-class, registered or certified mail;
- (iii) By fax and same-day mailing of copies;
- (iv) By commercial parcel delivery company; or
- (v) By electronic delivery.

(b) Service by mail is regarded as completed upon deposit in the United States mail properly stamped and addressed.

(c) Service by electronic fax is regarded as completed upon the production by the fax machine of confirmation of transmission.

(d) Service by commercial parcel delivery is regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

(e) Service by electronic delivery is regarded as completed on the date that the department electronically sends the information to the parties or electronically notifies the parties that the information is available to be accessed by them.

(f) Service to a holder and to their representative/agent of record must be to the address(es) shown on the petition for review.

(g) Service to the department's representative ~~((and to the presiding officer))~~ must be to the ~~((special programs division))~~ unclaimed property section at the address shown in subsection ~~((5))~~ (6) of this rule.

(h) Service to the reviewing officer must be to the administrative review and hearings division at the address shown in subsection ~~((6))~~ (7) of this rule.

(i) Where proof of service is required, the proof of service must include a certificate, signed by the person who served the document(s), stating the date of service; that the person did serve the document(s) upon all or one or more of the parties of record in the proceeding by delivering a copy to (names); and that the service was accomplished by a method of service as provided in this subsection.

(j) Failure to serve documents on all parties of record in the proceeding in a manner prescribed by this subsection will result in an unlawful ex parte contact. An ex parte contact cannot constitute evidence of any fact at issue in the matter unless the party complies with RCW 34.05.455(5).

~~((11))~~ (12) **Continuance.** The presiding officer or reviewing officer may ~~((grant a request for a continuance))~~ extend any filing deadline or move the date of any hearing by motion of the holder, the department, or on its own motion.

[Statutory Authority: RCW 63.29.370. WSR 18-11-103, § 458-65A-10001, filed 5/21/18, effective 6/21/18.]

WSR 23-01-095
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-282—Filed December 16, 2022, 3:03 p.m., effective December 16, 2022, 3:03 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 220-340-45500S:

- (1) Opens Puget Sound commercial crab harvest in Crab Management Region 2E on December 19, 2022, at 8:00 a.m.
- (2) Closes subregion 3-2 to commercial harvest effective December 20, 2022.
- (3) Implements hard closure dates that may close with[in] 120 days.
- (4) Corrects the Bellingham Bay closure area.

WAC 220-340-42000M: Permits barging of pots from December 19, 2022, at 8:00 a.m. through 7:59 a.m. on December 21, 2022, in subregion 2E only.

WAC 220-340-47000P: Sets pot limits for all areas with commercial harvest opportunity in Puget Sound. Reduces the pot limit for all areas that are closed to "0."

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500R, 220-340-42000L and 220-340-47000N; and amending WAC 220-340-455, 220-340-420, and 220-340-470.

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

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

Reasons for this Finding: There is sufficient allocation available in Regions 1, 2-West and subregions 3-1, 3-3, and 3-4 to accommodate continued commercial harvest. This rule closes subregion 3-2 following the projected attainment of the state share on December 20, 2022. This rule also opens Region 2E on December 19, 2022, to make use of additional harvest opportunity following comanager agreement to increase the quota. This rule also corrects a boundary of the Bellingham Bay closure area to conform with comanagement agreement. These provisions are in conformity with agreed[-to] management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. Further adjustment of season structure may be made pending updated harvest data. There is insufficient time to adopt permanent rules.

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

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

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

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: December 16, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500S Commercial crab fishery—Seasons and areas—Puget Sound. Effective immediately, until further notice, the provisions of WAC 220-340-455 regarding open periods for commercial crab harvest within Puget Sound and the geographic definition of the closure area within Marine Fish-Shellfish Management and Catch Reporting Area 21A shall be modified as described below. All other provisions of WAC 220-340-455 not addressed herein remain in effect unless otherwise amended by emergency rule:

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

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, through March 31, 2023.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, through April 15, 2023.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	8:00 am December 19, 2022, through February 1, 2023.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	8:00 am December 19, 2022, through December 31, 2022.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through February 15, 2023.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through February 15, 2023.
Subregion 3-1	Immediately, through March 31, 2023.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, through December 20, 2022.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, through December 20, 2022.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, through December 20, 2022.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately, through April 15, 2023.
Subregion 3-4	Immediately, through April 15, 2023.

(b) The area closed to commercial harvest in WAC 220-340-455 (2)(c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.69730°, -122.60730°) to the old pilings at Stevie's Point (48.77675°, -122.55196°).

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

NEW SECTION

WAC 220-340-42000M Commercial crab fishery—Unlawful acts. Effective immediately, until further notice, the provisions of WAC 220-340-420 regarding barging of crab pots by commercial vessels in Puget Sound shall be modified as described below. All other provisions of WAC 220-340-420 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) Effective 8:00 a.m. December 19, 2022 until 7:59 a.m. December 21, 2022 it is permissible to deploy Dungeness crab pots for commercial purposes in Crab Management Region 2E from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and prior notice has been given as provided below. Crab pots may only be deployed during daylight hours.

(2) Puget Sound commercial crab license holders that intend to barge must send an email to crab.report@dfw.wa.gov, detailing the following information:

(a) Name and license number of licensed owner.

(b) Name of designated primary operator if different from licensed owner.

(c) Name of alternate operator if used to deploy pots from a non-designated vessel.

(d) Buoy brand number and number of pots to be deployed from a non-designated vessel.

(e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

(f) Region or Set Location

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NEW SECTION

WAC 220-340-47000P Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. Effective immediately, until further notice, the provisions of WAC 220-340-470 regarding Marine Fish-Shellfish Management and Catch Reporting Areas gear limits shall be modified as described below. All other provisions of WAC 220-340-470 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

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

(2) Effective after the "Open Period" listed in amended section of WAC 220-340-455 above, the "Pot Limit" within each "geographical management unit" will be reduced to "0".

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REPEALER

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

- WAC 220-340-45500S Commercial crab fishery—Seasons and areas—Puget Sound.
- WAC 220-340-42000M Commercial crab fishery—Unlawful acts.
- WAC 220-340-47000P Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas.