

**WSR 20-13-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-92—Filed June 3, 2020, 4:53 p.m., effective June 5, 2020]

Effective Date of Rule: June 5, 2020.

Purpose: This rule is needed to open spring Chinook seasons in two areas of the Icicle River; from the closure signs located 800 feet upstream of the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam, and from the shoreline markers where Cyo Road intersects the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation Footbridge.

Citation of Rules Affected by this Order: Repealing WAC 220-312-05000B; and amending WAC 220-312-050.

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: Washington closed fisheries statewide beginning March 25 to help combat the spread of COVID-19 in the state. This rule is pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted beginning May 5, 2020.

The governor's proclamation amendment also includes requirements to exclude gatherings with people who are not members of the same household and maintain social distancing for the continued protection of public health and safety. These fishery openings considered that requirement as a basis for the decision to reopen fisheries, but do not incorporate those social distance elements within the regulations themselves. While not imposed in Washington department of fish and wildlife's (WDFW) fishery rules, they are and remain, a requirement of the governor's proclamation. Failure to abide by those social distance requirements could result in increased health risks requiring future fishery closures.

Sufficient returns of Icicle River hatchery spring Chinook are expected to meet broodstock needs at the Leavenworth National Fish Hatchery and also to provide for sport angler harvest. It is projected that up to one thousand spring Chinook will be available for nontreaty harvest. This fishery will be actively monitored and could close at any time if the nontreaty harvest share is met or if additional hatchery broodstock are needed. 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 Non-governmental 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: June 3, 2020.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-05000B Freshwater exceptions to statewide rules—Eastside.** Effective June 5 through June 30, 2020, or until further notice, provisions of WAC 220-312-050 regarding salmon seasons for the Icicle River shall be as described below. All other provisions of WAC 220-312-050 not addressed herein, or unless otherwise amended remain in effect:

Icicle River:

(a) From the closure signs located 800 feet upstream of the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam is closed to all species, except open for salmon fishing:

(i) Daily limit 1, minimum length 12 inches. Release all salmon other than hatchery Chinook.

(ii) Mandatory retention of hatchery Chinook over 12" in length.

(iii) Night closure.

(b) From the shoreline markers where Cyo Road intersects the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation Footbridge (approximately 750 feet upstream of the Snow Lakes trailhead parking area) is closed to all species, except open for salmon fishing:

(i) Daily limit 1, minimum length 12 inches. Release all salmon other than hatchery Chinook.

(ii) Mandatory retention of hatchery Chinook over 12 inches in length.

(iii) Night closure.

REPEALER

The following section of the Washington Administrative Code is repealed July 1, 2020:

WAC 220-312-05000B Freshwater exceptions to statewide rules—Eastside.

**WSR 20-13-002**  
**EMERGENCY RULES**  
**HORSE RACING COMMISSION**

[Filed June 3, 2020, 5:36 p.m., effective June 3, 2020, 5:36 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Licensed persons have access to the stable area at a licensed racetrack and by rule may sign in guests for access. With the current pandemic surrounding the COVID-

19 virus, it is for the industry and participants' health and safety that this access be restricted to prevent the possible spread of the virus. Based on the governor's lifting of the "Stay Home, Stay Safe" order, nonessential licensees will now be granted access based on following protocols established by the racing association. Guests will still not be allowed in the restricted area.

Citation of Rules Affected by this Order: Amending WAC 260-20-040.

Statutory Authority for Adoption: Chapter 67.16 RCW.

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

Reasons for this Finding: Restricting access to the facility immediately is a measure to protect those individuals that are required to be in the stable area for the care of the horses and operation of the facility.

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 Non-governmental 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: June 3, 2020.

Douglas L. Moore  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 07-11-115, filed 5/18/07, effective 6/18/07)

**WAC 260-20-040 Admission to grounds—Restricted areas.** ~~((+))~~ A person may only be permitted to enter the restricted areas of the racing association grounds under the following conditions:

~~((a))~~ The person possesses a license or credentials issued by the commission.

~~(b)~~ The person possesses a pass issued by the association.

~~(c)~~ The person has been signed in by a person licensed by the commission.

~~(2)~~ The restricted areas of a racing association will include, but not be limited to the stable area, and the jockey's quarters.

~~(3)~~ Children may be granted access to the stable areas as long as they are in the company of a parent or guardian who has a properly issued license, credential, or pass.

~~(4)~~ Persons escorted by a licensee must remain in the company of the licensee who signed them in.

~~(5))~~ (1) The person holds a license or credentials that are essential to the daily operations of the facility and/or the care and well being of the equines. Those licenses include:

(a) Association security, maintenance and administrative staff;

(b) Commission staff;

(c) Exercise or pony rider;

(d) Groom;

(e) Horsemen's association staff;

(f) Trainers and assistant trainers;

(g) Veterinarian and their employees; and

(h) Vendors and their employees including, but not limited to, platers, tack and equipment providers, feed and supplies providers.

(2) Access may be granted to the grounds for those not currently licensed delivering essential supplies and transporting horses on or off the grounds. A log of nonlicensed individuals granted access to the restricted area must be maintained by association security and made available on request for review.

(3) Nonessential licensees may be admitted during hours as designated by the racing association and are required to follow protocols as established by the racing association.

(4) Licensed owners may be accompanied by their spouses.

(5) The person holds a pass issued by the association.

(6) At a Class C racing association, the stable areas will not be considered a restricted area, except that the racing association may limit access to this area.

~~((6))~~ (7) Passes must be displayed while in a restricted area.

**WSR 20-13-005  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 20-99—Filed June 4, 2020, 4:01 p.m., effective June 16, 2020]

Effective Date of Rule: June 16, 2020.

Purpose: This rule is needed to close recreational salmon seasons on the Skagit River from Memorial Highway Bridge to Gilligan Creek due to low forecasted returns of sockeye.

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

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

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

Reasons for this Finding: These measures are being taken because the preseason forecast for sockeye is not sufficient to support an in-river harvest fishery. The 2020 broodstock goal is for ten thousand sockeye, which falls in the mid-

range of forecast returns. Additionally, Baker Lake sockeye fisheries have been prioritized over in river fisheries based on angler input. Prioritizing the Baker Lake fishery also allows an opportunity to track whether broodstock needs are being met prior to opening a fishery in Baker Lake. These rules were agreed to with comanagers during the 2020 North of Falcon salmon season setting process.

A Baker Lake sockeye season may be considered if brood stock goals are meeting objectives.

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 Non-governmental 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: June 4, 2020.

Amy Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-04000P Freshwater exceptions to statewide rules—Puget Sound.** Effective June 16 through July 15, 2020, the following provisions of WAC 220-312-040 regarding recreational salmon seasons for the Skagit River from Memorial Highway Bridge to Gilligan Creek, shall be as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Skagit River (Skagit Co.) from the highway 536 bridge (Memorial Highway Bridge) in Mt Vernon to Gilligan Creek:  
Salmon: Closed.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective July 16, 2020:

WAC 220-312-04000P Freshwater exceptions to statewide rules—Puget Sound.

#### **WSR 20-13-011**

#### **EMERGENCY RULES**

#### **HEALTH CARE AUTHORITY**

[Filed June 5, 2020, 12:48 p.m., effective June 5, 2020, 12:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule making is required to comply with the requirements in 2ESHB 1388 which changed the designation of the state behavioral health services, effective July 1, 2018. The single bed certification rules were previously filed under Preproposal statement of inquiry WSR-18-14-080, and Emergency rule-making order WSR 19-13-057, as WAC 182-538D-0526.

The rule making under WSR 18-14-080 was finalized under WSR 19-24-063. Rule making for single bed certification will be continued through a separate rule-making progress [process] as the agency has additional work to do to develop the program. Single bed certification has also been renumbered from WAC 182-538D-0526 to WAC 182-100-0200 to reflect that it is not solely a service under medicaid.

Since the emergency rule making filed under WSR 20-05-021, the agency completed the external review portion of the permanent rule-making process, is currently reviewing the comments received as part of this review, and plans to file the proposed rules or a public hearing soon.

Citation of Rules Affected by this Order: New WAC 182-100-0200.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; 2ESBH [2ESHB] 1388 (chapter 201, Laws of 2018).

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: 2ESHB 1388 directs the transfer of the behavioral health authority to the health care authority, effective July 1, 2018.

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 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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: June 5, 2020.

Wendy Barcus  
Rules Coordinator

NEW SECTION

**WAC 182-100-0200 Single bed certification.** At the discretion of the health care authority, an exception may be granted to allow timely and appropriate treatment in a facility that is not certified under chapter 246-341 WAC to a person on a seventy-two hour detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment. An exception may also be granted for a maximum of thirty days to allow a community facility to provide treatment to a person on a ninety- or one hundred eighty-day inpatient involuntary commitment order or to a person who has been revoked from a less restrictive alternative order or conditional release. For involuntarily detained or committed children, the exception may be granted to allow timely and appropriate treatment in a facility not certified under chapter 246-341 WAC until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) The behavioral health administrative services organization (BH-ASO) or a designee must submit a written request for a single bed certification to the health care authority. In the case of a child, the facility must submit the written request to the health care authority. The request must be submitted and approved by the health care authority for a facility to accept a person for timely and appropriate treatment under this section. If the health care authority has assumed the duties assigned to a nonparticipating BH-ASO, an entity designated by the health care authority will perform the functions described in this section.

(2) A single bed certification may be issued to the facility for timely and appropriate mental health treatment when the following requirements are met in each instance where such certification is sought for a person:

(a) The facility that is the site of the proposed single bed certification confirms that it is willing and able to provide directly, or by direct arrangement with other public or private agencies, timely and appropriate mental health treatment to the person for whom the single bed certification is sought; and

(b) The request for single bed certification describes why the person meets at least one of the following criteria:

(i) The person is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the person's individual treatment needs;

(ii) The person can receive appropriate mental health treatment in a residential treatment facility, as defined in WAC 246-337-005, and the single bed certification will be only to that facility; or

(iii) The person can receive appropriate mental health treatment in a hospital with a psychiatric unit, or a hospital that is willing and able to provide timely and appropriate mental health treatment, or a psychiatric hospital, and the single bed certification will apply only to that facility.

(3) In order to provide timely and appropriate mental health treatment, the facility receiving the single bed certification, or the public or private agency the facility has a direct arrangement with to provide mental health treatment, must:

(a) Implement standards for administration that include written procedures to assure that a mental health professional,

as defined in RCW 71.05.020 or WAC 182-538D-0200, and licensed physicians are available for consultation and communication with both the person and the direct patient care staff;

(b) Use a plan of care/treatment. The medical or clinical record must contain documentation that:

(i) An individualized mental health treatment plan was developed, when possible, collaboratively with the person. If the person is unwilling or unable to participate in development of the plan, documentation must be made in the record. Development of this plan may include participation of a multidisciplinary team, a mental health professional, as defined in RCW 71.05.020 or WAC 182-538D-0200, or collaboration with members of the person's support system as identified by the person.

(ii) A mental health professional, as defined in RCW 71.05.020 or WAC 182-538D-0200, has had contact with each involuntarily detained person at least daily for the purposes of:

(A) Observation and evaluation; and

(B) Assessing whether the person is appropriate for release from involuntary commitment to accept treatment on a voluntary basis.

(c) Have standards for administration and monitoring of medication, including psychiatric medications. A person has a right to make an informed decision regarding the use of antipsychotic medication consistent with RCW 71.05.215.

(4) If a person requires medical services that are not generally available at a facility certified under this chapter, or at a state psychiatric hospital, or a facility that meets the requirements of subsections (2) and (3) of this section, a single bed certification may be issued to that facility for the person as follows:

(a) The single bed certification request must adequately describe why the person requires medical services that are not available at a facility certified under this chapter, a state psychiatric hospital, or a facility that meets the requirements of subsections (2) and (3) of this section;

(b) The facility that is the site of the requested single bed certification must confirm that it is willing and able to provide the medical services; and

(c) The facility has documented that one of the following has been met:

(i) With the authorization of the hospital, and consistent with any applicable hospital policies and procedures, the BH-ASO assigns a mental health professional to provide the person appropriate mental health treatment at the facility, including observation and evaluation, during the period of time the person is provided medical services; or

(ii) The hospital provides medical services and a plan that addresses the person's mental health treatment needs until the person is medically stable and the BH-ASO or a designee identifies an appropriate facility for the person that is one of the following:

(A) The hospital providing services;

(B) A facility that is certified as an evaluation and treatment (E&T) facility; or

(C) A facility that can meet the person's needs under the single bed certification criteria in this section.

(d) If a qualified medical professional determines that mental health treatment for the person is not clinically indicated, the requirements in (c) of this subsection do not apply. When the person is determined to be medically stable, the facility must ensure the requirements in (c) of this subsection are met.

(5) The health care authority makes the decision and gives written notification to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal or state law.

(6) A person who receives services under a single bed certification under this section must be transferred:

(a) To an evaluation and treatment facility if on a seventy-two hour detention, a five-day detention pending a revocation proceeding, or a fourteen-day commitment; or

(b) To a state hospital if on a ninety- or one hundred eighty-day inpatient commitment, or if the person's less restrictive alternative order or conditional release was revoked, as soon as the attending physician considers the person medically stable and a bed becomes available, unless the treating facility consents to continue treatment and continued treatment in the current setting is consistent with the best clinical interests of the person.

(7) The health care authority may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the health care authority determines that the violation places people in imminent jeopardy, immediate revocation of this exception can occur.

(8) The BH-ASO retains the responsibility for ensuring due process required by RCW 71.24.300 (6)(b).

(9) Neither a person nor a facility has fair hearing rights as defined under chapter 182-526 WAC regarding single bed certification decisions by the health care authority staff.

**WSR 20-13-012**  
**EMERGENCY RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed June 5, 2020, 1:21 p.m., effective June 5, 2020, 1:21 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This WAC amendment would extend the validity period of educator certificates expiring June 30, 2020, for one additional year to June 30, 2021.

Citation of Rules Affected by this Order: New WAC 181-77A-118.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Reasons for this Finding: Schools across the state have now closed in response to the COVID-19 outbreak. With the closing of schools, continuing education options for educa-

tors have also been reduced or eliminated. Continuing education is often offered in group settings, and many of those events have been cancelled. It would be very challenging for educators to accrue enough continuing education hours between now and June in order to renew their certificates.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 5, 2020.

Maren Johnson  
Rules Coordinator

**NEW SECTION**

**WAC 181-79A-118 Expiration and lapse dates of certificates.** (1) Certificates scheduled to expire June 30, 2020, under WAC 181-79A-117, or scheduled to lapse June 30, 2020, under WAC 181-85-100, excluding residency certificates that are subject to reissuance, are scheduled to expire or lapse June 30, 2021.

(2) Certificates scheduled to expire June 30, 2020, under WAC 181-79A-117, or scheduled to lapse June 30, 2020, under WAC 181-85-100, may have already been renewed. For these renewed certificates, the expiration or lapse date will be calculated as if the certificate expiring June 30, 2020, had an expiration or lapse date of June 30, 2021.

(3) Applications for renewal of certificates scheduled to expire June 30, 2021, may be submitted at any point prior to the June 30, 2021, expiration date.

(4) Limited certificates under WAC 181-79A-231, 181-77-014, and 181-77-081 expire as described in those sections.

(5) Permits under WAC 181-01-001, 181-02-001, 181-79A-128, and 181-79A-224 expire as described in those sections. Permits for candidates eligible under those sections which expired beginning July 1, 2019, and before December 31, 2020, may be reissued once for one additional year.

**WSR 20-13-013**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**

[Filed June 5, 2020, 1:54 p.m., effective June 5, 2020, 1:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is establishing chapter 182-521 WAC, Public health emergency rules, and creating new

WAC 182-521-0100 Disregarded income, to identify income that the agency does not count when determining apple health eligibility.

Citation of Rules Affected by this Order: New WAC 182-521-0100.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Not applicable.

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

Reasons for this Finding: In response to the current public health emergency surrounding the outbreak of the coronavirus disease (COVID-19), along with the governor of Washington's emergency proclamations related to COVID-19, this rule making is necessary to preserve the public health, safety, and general welfare by identifying income that the agency does not count when determining apple health eligibility.

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 Non-governmental 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: June 5, 2020.

Wendy Barcus  
Rules Coordinator

## Chapter 182-521 WAC

### PUBLIC HEALTH EMERGENCY RULES

#### NEW SECTION

**WAC 182-521-0100 Disregarded income.** (1) The health care authority (agency) does not count as income when determining apple health eligibility any Federal Pandemic Economic Unemployment Compensation or Recovery Rebates authorized under the CARES Act or other needs-based assistance authorized as a result of the COVID-19 emergency as described in this section.

(2) The agency disregards an emergency increase in unemployment compensation benefits of an additional six hundred dollars per week issued as compensation for the period of March 18, 2020, through July 31, 2020, as income for medicaid determinations and post-eligibility cost-sharing calculations.

(3) The agency considers Pandemic Recovery Rebates (stimulus checks) to be exempt as income and does not count them as a resource for twelve months after receipt.

(4) The agency considers needs-based assistance from other agencies or tribal entities to be exempt as income.

(5) The agency excludes income described in this section from the post-eligibility treatment of income (PETI) calculation.

(6) Any income received as unemployment compensation not described within this section is otherwise countable and the agency counts it when determining apple health eligibility.

(7) These rules are in effect until the later of:

(a) The date the client is receiving any benefits described in this rule; or

(b) The date on which the Secretary of the U.S. Department of Health and Human Services declares the COVID-19 public health emergency to be over.

### WSR 20-13-015 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 20-101—Filed June 5, 2020, 4:06 p.m., effective June 5, 2020, 4:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Washington department of fish and wildlife (WDFW) is reopening its lands to overnight camping in Washington counties that have been approved to move to Phase 2 of the Governor's Safe Start plan where camping is otherwise allowed (e.g., campgrounds, water access areas, and dispersed camping on wildlife areas), including Okanogan and Clark counties. Individuals staying overnight on WDFW lands must comply with the social distancing and public safety precautions described in the Safe Start plan.

All lands within counties that remain in Phase 1 shall remain closed to camping to comply with the Governor's order to "Stay Home, Stay Healthy," and the Governor's Safe Start plan.

Citation of Rules Affected by this Order: Repealing WAC 220-500-10000C; and amending WAC 220-500-100.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055.

Other Authority: None.

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: Under the Governor's Safe Start plan, counties with an average of less than ten new COVID-19 cases per one hundred thousand residents over a fourteen-day period are eligible to apply for a variance to move to Phase 2. The application process requires support from the local health officer, the local board of health, local hospitals, and the county commission or council. Each county must demonstrate that they have adequate local hospi-

tal bed capacity as well as adequate personal protection equipment supplies to keep health care workers safe and must submit a plan describing how they intend to comply with the provisions of the Safe Start plan.

Additionally, WDFW does not allow camping on its lands in western Washington in counties that currently remain in Phase 1; therefore, even if those westside counties that are currently in Phase 1 are approved to move to Phase 2, camping on WDFW lands would still be prohibited in those areas.

WDFW lands in those counties that remain in Phase 1 in central and eastern Washington where camping on WDFW lands is typically allowed shall remain closed to camping until further notice or the previous emergency rule (WSR 20-08-043) expires on July 23, 2020.

Individuals and families from the same household who use WDFW lands for camping must comply with the Governor's Safe Start plan for Phase 2, such as limiting travel distance, and practicing social distancing and self-sanitation measures. Individuals and families are also required to comply with any county COVID-19 requirements, which may include mandatory face coverings when recreating outdoors.

WDFW will continue to reassess the camping restrictions as additional counties are approved to move to Phase 2 of the Governor's Safe Start plan.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, 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: June 5, 2020.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-500-10000D Camping.** Effective immediately, and until further notice or until this expires on July 23, 2020, the provisions of WAC 220-500-100 shall be as described below for lands in the following counties: Benton, Chelan, Douglas, Franklin, and Yakima. All other provisions of WAC 220-500-100 not addressed herein, or unless otherwise amended, remain in effect:

(1) It is unlawful to establish or occupy a camp on department lands.

(2) It is unlawful to establish or occupy a residence camp on department lands. For purposes of this section, a residence camp is an encampment, occupancy, or presence on depart-

ment lands that is the principal place of residence for the person or occupant.

(3) A residence camp on department lands is declared to be a public nuisance and may be abated by the department after ten days of notice by the department.

#### REPEALER

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

WAC 220-500-10000C Camping. (20-96)

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

### **WSR 20-13-018 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 20-65—Filed June 5, 2020, 4:55 p.m., effective June 6, 2020]

Effective Date of Rule: June 6, 2020.

Purpose: This rule is needed to close recreational fishing seasons on the Hoh River and South Fork Hoh River.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000C; and amending WAC 220-312-020.

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

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

Reasons for this Finding: Closing recreational fishing seasons for the Hoh River and Hoh River, South Fork is necessary to meet conservation objectives for wild summer Chinook in this river system. Preseason forecasts for the Hoh River summer Chinook returns indicate an expected return of eight hundred four fish, which is ninety-six fish short of the escapement goal.

The current permanent rule is inconsistent with the agreed 2020-21 North of Falcon fishery sharing and conservation package. The department is in the process of adopting permanent rules that are necessary to implement the state's share of the fishing plans agreed to with resource comanagers during the 2020-21 North of Falcon season setting process. 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 Non-governmental 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: June 5, 2020.

Amy H. Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-02000C Freshwater exceptions to statewide rules—Coast.** Effective June 6 through September 15, 2020, the following provisions of WAC 220-312-020 (41) and (42), regarding recreational fishing seasons for the Hoh River and Hoh River, South Fork, shall be as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended, remain in effect:

(1) Hoh River from the Olympic National Park boundary near the mouth upstream to Olympic National Park boundary above Morgan's Crossing boat launch: Closed waters.

(2) Hoh River, South Fork, from mouth upstream to Olympic National Park boundary: Closed waters.

#### REPEALER

The following section of Washington Administrative Code is repealed effective September 16:

WAC 220-312-02000C Freshwater exceptions to statewide rules—Coast.

### **WSR 20-13-019**

#### **EMERGENCY RULES**

#### **EMPLOYMENT SECURITY DEPARTMENT**

[Filed June 8, 2020, 9:22 a.m., effective June 8, 2020, 9:22 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The rule making is proposed in order to address the charging of the first week of unemployment benefits while the statutory requirement for claimants to serve a waiting week is waived and suspended. This rule finds that the first week of unemployment benefits should not be charged to either taxable or reimbursable employers during any week where the governor has waived or suspended statutes requiring claimants to serve a waiting week before they are eligible to receive any unemployment benefits, since this first week is fully federally funded.

Citation of Rules Affected by this Order: New WAC 192-320-079.

Statutory Authority for Adoption: RCW 50.12.040.

Other Authority: Unemployment Insurance Program Letter No. 20-20 (Apr. 30, 2020).

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: On March 18, 2020, the Governor issued Emergency Proclamation 20-21, which suspended state statute requiring unemployed individuals to serve a waiting week before they became eligible for unemployment benefits. With the consent of legislative leadership, the governor has extended this emergency proclamation until at least June 17, 2020. The governor suspended these statutes in order to reduce the economic hardship on Washingtonians as the COVID-19 pandemic and the need to curtail the spread of COVID-19 caused many businesses to close or greatly reduce operations, resulting in a large number of employees being laid off. On March 29, 2020, Congress passed and the President signed the Coronavirus Aid, Relief, and Economic Security Act or CARES Act, P.L. 116-136. Sec. 2105 of the CARES Act provides that from the week ending April 4, 2020, through the week ending December 26, 2020, the federal government will fully reimburse employment security for the first week of benefits during any week for which there is no requirement that claimants serve a waiting week in order to receive benefits. This emergency rule is necessary to prevent further economic hardship on Washington employers who had to lay off employees as a result of COVID-19, especially in light of the fact that the first week an individual was unemployed has traditionally been an unpaid week, as well as the fact that the first week of benefits is currently being fully reimbursed by the federal government.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 8, 2020.

Dan Zeitlin  
Policy Director

#### NEW SECTION

**WAC 192-320-079 Charging and reimbursement of the first week of benefits while the waiting week is waived by emergency proclamation.** (1) If the first week an individual receives unemployment benefits occurs during any week that contains at least one day wherein the governor has waived or suspended any statute or statutes requiring individ-



uals to be unemployed for a waiting period of one week prior to becoming eligible for unemployment benefits, that first week of benefits will not be charged to the individual's employers' experience rating accounts.

(2)(a) If the first week an individual receives unemployment benefits occurs during any week that contains at least one day wherein the governor has waived or suspended any statute or statutes requiring individuals to be unemployed for a waiting period of one week prior to becoming eligible for unemployment benefits, the department will not require the individual's employers' to make payments in lieu of contributions for that first week of benefits.

(b) For any employer that makes payments in lieu of contributions that has already reimbursed the department for an individual's first week of benefits during any week that contains at least one day wherein the governor has waived or suspended any statute or statutes requiring individuals to be unemployed for a waiting period of one week prior to becoming eligible for unemployment benefits, the department will refund those amounts paid.

#### WSR 20-13-024

#### EMERGENCY RULES

#### PUBLIC DISCLOSURE COMMISSION

[Filed June 8, 2020, 4:23 p.m., effective June 11, 2020]

Effective Date of Rule: June 11, 2020.

Purpose: These rules are necessary to implement the terms of SSB 6152 (2020), regarding the prohibition on political spending by foreign nationals.

Citation of Rules Affected by this Order: New WAC 390-16-330 and 390-16-335.

Statutory Authority for Adoption: RCW 42.17A.110, 42.17A.240, 42.17A.250, 42.17A.260, 42.17A.305.

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

Reasons for this Finding: SSB 6152 becomes effective June 11, 2020. Rules are necessary to implement the new law for the 2020 election. RCW 42.17A.110(1) does not allow the public disclosure commission rules to take effect between July 1 and the general election.

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 2, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: May 28, 2020.

Sean Flynn  
General Counsel

#### NEW SECTION

#### **WAC 390-16-330 Prohibited financing and involvement by foreign nationals. (1) Prohibited financing by foreign nationals.**

(a) For purposes of section 9, chapter 152, Laws of 2020 (SSB 6152), a contribution, expenditure, political advertising, or electioneering communication is "financed in any part by a foreign national" if the person making the contribution or expenditure, or sponsoring the advertisement or communication, uses a funding source that includes, in whole or in part, anything of value received from a foreign national for less than full consideration. Such value may include, but is not limited to, a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds, or goods and services.

(b) Anything of value received from a foreign national for less than full consideration must be segregated, using reasonable accounting methods, from the funding source used by the entity to finance a contribution, expenditure, advertisement, or communication. Funding from a foreign national may not be used to supplant, replace, or replenish the funding source or any of the resources or activities funded by that source.

#### **(2) Prohibited decision-making involvement by foreign nationals.**

(a) For purposes of section 9, chapter 152, Laws of 2020 (SSB 6152), a foreign national is "involved in making decisions regarding the contribution, expenditure, political advertising, or electioneering communication in any way" if the foreign national directs, dictates, controls, or directly or indirectly participates in the decision-making process regarding any such contribution, expenditure, advertisement, or communication.

(b) If any entity is a subsidiary, branch, unit, or division of a foreign national, or otherwise established, financed, maintained or controlled by a foreign national, under the criteria provided in WAC 390-16-309(3), the decision-making authority of such entity regarding the contribution, expenditure, advertisement, or communication, must be clearly established to be comprised exclusively of United States citizens or legal permanent residents, in order to exclude involvement by any foreign national.

#### NEW SECTION

#### **WAC 390-16-335 Certification for contributions from entities—Prohibited activity by foreign nationals.**

(1) The certification required for a candidate or political committee to accept each contribution from a partnership, association, corporation, organization, or other combination of persons must be received in writing, either:

(a) By the date the report including the contribution is due, or within ten business days, whichever is later; or

(b) Within thirty days from the date the contribution is received, so long as the candidate or committee keeps any

uncertified contributions in a separate bank account, to prevent commingling with other contributions, until the certification is received.

(2) Any uncertified contribution must be refunded or returned by the applicable deadline in subsection (1) of this section. The failure to timely refund or return an uncertified contribution constitutes a violation of chapter 42.17A RCW.

(3) Entities may use a certification that conforms to the suggested format below or provide a different format, so long as it provides the following information:

(a) The name of the entity making the contribution and the authorized agent;

(b) A statement that the entity is not a foreign national, as defined in RCW 42.17A.005(24);

(c) A statement that the contribution is not financed in any part by a foreign national;

(d) A statement that foreign nationals were not involved in making decisions regarding the contribution in any way;

(e) The amount of the contribution and the date it was made; and

(f) The date the certification was submitted.

<p>Certification that Contribution Is Not From a Foreign National</p> <p>I certify that the entity _____ (name of entity) making this contribution is not organized under the laws of, and does not have its principal place of business in, a foreign country. This contribution is not financed in any part by a foreign national, and foreign nationals were not involved in making decisions regarding the contribution in any way.</p> <p>Amount of Contribution:</p> <p>Date of Contribution:</p> <p>Name of Authorized Agent:</p> <p>Date Submitted:</p>
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**WSR 20-13-025**

**EMERGENCY RULES**

**SECRETARY OF STATE**

[Filed June 9, 2020, 9:25 a.m., effective June 9, 2020, 9:25 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To clarify options for minor party and independent candidate conventions held pursuant to RCW 29A.56.600 through 29A.56.670 during the COVID-19 health emergency. Due to the declared COVID-19 health emergency, gatherings of one hundred or more people are currently prohibited in all counties in Washington state.

Citation of Rules Affected by this Order: New WAC 434-208-1301.

Statutory Authority for Adoption: RCW 29A.04.611.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Due to the COVID-19 health emergency, face to face meetings and large in-person gatherings are prohibited by emergency order and pose a danger to public health. This emergency rule clarifies options for minor party and independent candidates seeking to place a presidential candidate on the ballot pursuant to RCW 29A.56.600 through 29A.56.670.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: June 9, 2020.

Mark Neary  
Assistant Secretary of State

NEW SECTION

**WAC 434-208-1301 Minor party and independent candidate presidential conventions conducted during the COVID-19 state of emergency in 2020.**

(1) For purposes of this rule, a convention, as defined in RCW 29A.56.600, is an organized meeting or meetings of registered Washington voters supporting minor political party or independent candidates for president and vice president.

(2) In 2020, a minor party or independent candidate convention conducted virtually will be accepted.

(3) If the convention is held virtually, the notice required by RCW 29A.56.620 may be published in a newspaper of general circulation in the Washington state county in which the virtual convention will be hosted or in which the candidate reasonably anticipates that at least one attendee resides. For a virtual convention, the notice must include information on how interested attendees can register to attend the convention and the mailing address of the person or organization sponsoring the convention.

(4) The nominating petition requirements of RCW 29A.56.630, 29A.56.640, and 29A.56.650 must be observed.

(5) Attendees of a virtual convention must have a hard copy of the nominating petition, and they must provide their printed name, address, and original signature. Signatures must be submitted to the secretary of state together with the nominating petition. Digital or digitized signatures will not be accepted on the nominating petition forms.

(6) This emergency rule is adopted in light of the impacts that the COVID-19 pandemic has had on the ability of individuals to gather for organized meetings. This emergency

rule does not alter the agency's longstanding interpretation that a convention must occur in-person in all other situations.

(7) All other requirements for minor party and independent candidates for president and vice president remain in effect.

**WSR 20-13-030**  
**RECISSION OF EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed June 9, 2020, 3:23 p.m.]

The department of children, youth, and families requests to withdraw WSR 20-09-138 [20-09-136], WAC 110-15-0190, WCCC benefit calculations, filed on April 21, 2020.

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

Brenda Villarreal  
Rules Coordinator

**WSR 20-13-031**  
**RECISSION OF EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed June 9, 2020, 3:27 p.m.]

The department of children, youth, and families requests to withdraw WSR 20-09-052, WAC 110-15-0020 Eligibility—Special circumstances, and 110-15-0109 Reapplication, filed on April 8, 2020.

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

Brenda Villarreal  
Rules Coordinator

**WSR 20-13-032**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed June 9, 2020, 3:31 p.m., effective June 9, 2020, 3:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: **For Working Connections and Seasonal Child Care:** Extend certification periods for twelve months for families whose certification periods end in March, April, May, or June 2020, and whose approved activity was lost due to the COVID-19 pandemic and Proclamation of the Governor 20-05.

Citation of Rules Affected by this Order: Amending WAC 110-15-0020, 110-15-0109, and 110-15-0190.

Statutory Authority for Adoption: RCW 43.216.055 and 43.216.065.

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: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor's proclamation directed state agencies to do everything reasonably possible to respond to and recover from the COVID-19 outbreak. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. The effects of its extreme risk of person-to-person transmission throughout Washington state significantly impact the life and health of our people, as well as our economy, and pose particular challenges to the availability of quality early learning and child care services for families with low incomes. These emergency amendments to WAC 110-15-0020, 110-15-0109, and 110-15-0190 address these challenges by removing subsidy eligibility barriers.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 9, 2020.

Brenda Villarreal  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-08-020, filed 3/26/19, effective 4/26/19)

**WAC 110-15-0020 Eligibility—Special circumstances.** (1) A legal guardian or individual acting in loco parentis may be eligible for WCCC benefits based on participation in approved activities without consideration of the legal guardian's or individual's acting in loco parentis spouse or live-in partner's availability to provide care if the spouse or live-in partner is not named on the permanent custody order.

(a) Eligibility will be determined under this subsection based on the following:

- (i) The consumer's work or approved activities schedule;
- (ii) The child's need for care;
- (iii) The child's income; and
- (iv) Family size based on the number of children under guardianship and needing care.

(b) The consumer's spouse or live-in partner is not eligible to receive subsidized child care payments as a child care provider for the child.

(2) **At application and reapplication:**

(a) A consumer may be eligible for WCCC benefits if the consumer is a parent in a two-parent family and one parent is not able or available as defined in WAC 110-15-0003 to provide care for the children while the other parent is working or participating in approved activities.

(b) If a consumer claims one parent is not able to care for the children due to a medical condition, the consumer must provide written documentation from an acceptable medical source, as defined in WAC 388-449-0010, that states the:

- (i) Reason the parent is not able to care for the children;
- (ii) Expected duration and severity of the condition that keeps the parent from caring for the children; and
- (iii) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing he or she is cooperating with treatment and is still not able to care for the children.

(3) A consumer may be eligible for WCCC if the consumer is participating in an approved activity needed to remove a sanction penalty or to reopen the consumer's Work-First case.

(4) A consumer whose application for TANF has not yet been approved, may be authorized for WCCC benefits for fourteen days pending establishment of an individual responsibility plan (IRP) with an approved activity. The fourteen days counts as part of the twelve-month eligibility period.

(5) A consumer who has an established IRP under WAC 110-15-0040 may be approved for WCCC benefits fourteen days before the start date of the activity. The fourteen days counts as part of the twelve-month eligibility period.

(6) A consumer who is waiting to enter into an approved activity under WAC 110-15-0045 may be approved for WCCC benefits fourteen days before the start date of the activity. The fourteen days counts as part of the twelve-month eligibility period.

(7) Consumers who apply for an eligibility redetermination whose current certification period ends in March, April, May, or June 2020 may be considered to have an approved activity if their previously approved activity is no longer available because of the COVID-19 pandemic and the State of Emergency declared by the Governor in Proclamation 20-05, currently in effect as of the date of the filing of this emergency rule.

AMENDATORY SECTION (Amending WSR 19-08-020, filed 3/26/19, effective 4/26/19)

**WAC 110-15-0109 Reapplication.** (1) To request WCCC benefits be continued uninterrupted beyond the consumer's current eligibility period, the consumer must reapply for WCCC benefits with ((~~DSHS~~) DCYF) on or before the end of the current eligibility period.

(2) Determination of the consumer's eligibility to receive uninterrupted WCCC benefits beyond the consumer's current eligibility period will be made pursuant to the eligibility rules contained in this chapter.

(3) A consumer who reapplies on or before the end date of the current WCCC eligibility period may receive continued uninterrupted benefits through second tier eligibility if the consumer's household has countable income greater than

two hundred percent but less than two hundred twenty percent of the federal poverty guidelines (FPG).

(a) If the countable income is equal to or greater than two hundred twenty percent FPG, the reapplication will be denied.

(b) The copayment for a second tier eligible consumer will be determined at two hundred percent of the FPG of countable household income.

(4) If a consumer submits a reapplication after the last day of the current eligibility period and meets all WCCC eligibility requirements, the consumer's benefits will begin as described in subsection (4)(a) or subsection (4)(b) whichever date is earlier:

(a) On the date the consumer's reapplication is entered into ((~~DSHS~~) DCYF)'s automated system or the date the consumer's reapplication is date-stamped as received by ((~~DSHS~~) DCYF), whichever date is earlier;

(b) ((~~When~~) the consumer is ((~~working or~~)) participating in an approved activity; and

(c) The date the consumer's child is receiving care from an approved provider.

AMENDATORY SECTION (Amending WSR 19-08-020 [20-08-077], filed 3/26/19 [3/26/20], effective 4/26/19 [4/26/20])

**WAC 110-15-0190 WCCC benefit calculations.** (1) The amount of care a consumer may receive is determined by ((~~DCYF~~) DCYF) at application or reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

- (a) The consumer requests the reduction;
- (b) The care is for a school-aged child as described in subsection (3) of this section; or
- (c) Incorrect information was given at application or reapplication.

(2) To determine the amount of weekly hours of care needed, ((~~DCYF~~) DCYF) reviews:

(a) The consumer's participation in approved activities and the number of hours the child attends school, including home school, which will reduce the amount of care needed.

(b) In a two parent household, the days and times approved activities overlap, and only authorize care during those overlapping times. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.

(c) ((~~DCYF~~) DCYF) will not consider the schedule of a parent in a two parent household who is not able to care for the child.

(3) Full-time care for a family using licensed providers is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Twenty-three full-day units per month will be authorized when the child ((~~needs~~) is in) care five or more hours per day.

(b) Thirty half-day units per month will be authorized when the child ((~~needs~~) is in) care less than five hours per day.

(c) Forty-six half-day units per month will be authorized during the months of April, May, June, July, and August for

a school-aged child who ~~((needs))~~ is in care for five or more hours ~~((of care;))~~ per day.

(4) Partial-day monthly unit. A single partial-day monthly unit per month will be authorized for a school-age child attending a licensed family home child care when the child is:

(a) Authorized for care with only one provider;

(b) Eligible for full-time authorization, but is in care less than five hours on a typical school day; and

(c) Expected to need care before and after school.

(d) Only one monthly unit may be authorized per child per month.

~~((4))~~ (5) Supervisor approval is required for additional days of care that exceeds twenty-three full days ~~((or)),~~ thirty half days, or one partial-day monthly unit per month;

~~((and~~

~~(e) Care cannot exceed sixteen hours per day, per child.~~

~~(4))~~.

(6) Full-time care for a family using in-home/relative providers (family, friends and neighbors) is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Two hundred thirty hours of care will be authorized when the child ~~((needs))~~ is in care five or more hours per day;

(b) One hundred fifteen hours of care will be authorized when the child ~~((needs))~~ is in care less than five hours per day;

(c) One hundred fifteen hours of care will be authorized during the school year for a school-aged child who ~~((needs))~~ is in care less than five hours per day and the provider will be authorized for contingency hours each month, up to a maximum of two hundred thirty hours;

(d) Two hundred thirty hours of care will be authorized during the school year for a school-aged child who ~~((needs))~~ is in care five or more hours in a day; and

(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month ~~((and~~

~~((f))~~.

(7) Care cannot exceed sixteen hours per day, per child.

~~((5))~~ (8) When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month:

(a) A full-day unit will be authorized for each day of care that exceeds five hours;

(b) A half-day unit will be authorized for each day of care that is less than five hours; and

(c) A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

~~((6))~~ (9) When determining part-time care for a family using in-home/relative providers:

(a) Under the provisions of subsection (2) of this section, ~~((DSHS))~~ DCYF will authorize the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and

(b) The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

~~((7))~~ (10) DCYF determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

~~((8))~~ (11) DCYF may authorize more than the state rate and up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 110-15-0125, or an approved in-home/relative provider under WAC 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

~~((9))~~ (12) Other fees ~~((DSHS))~~ DCYF may authorize to a provider are:

(a) Registration fees;

(b) Field trip fees;

(c) Nonstandard hours bonus;

(d) Overtime care to a licensed provider when care is expected to exceed ten hours in a day; and

(e) Special needs rates for a child.

(13) Subject to the conditions described in WAC 110-15-0020(7), a consumer with a certification period ending in March, April, May, or June 2020, who reapplies and is approved, may be authorized care at the same level as the prior authorization.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

## WSR 20-13-036

### EMERGENCY RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 10, 2020, 8:39 a.m., effective June 11, 2020]

Effective Date of Rule: June 11, 2020.

Purpose: The department is amending WAC 388-400-0055 Who is eligible for the pregnant women assistance (PWA) program?, and 388-400-0070 Who is eligible for referral to the housing and essential needs (HEN) program?, to support implementation of SSB 6495 (chapter 322, Laws of 2020).

Citation of Rules Affected by this Order: Amending WAC 388-400-0055 and 388-400-0070.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.0052, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.043, 74.08.090, 74.08.335, 74.08A.100.

Other Authority: Chapter 322, Laws of 2020.

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

Reasons for this Finding: Emergency adoption of these amendments is necessary to implement SSB 6495 (chapter

322, Laws of 2020), effective June 11, 2020, extending a referral to the HEN program for PWA program recipients.

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 2, Repealed 0.

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

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

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

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

Date Adopted: June 3, 2020.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-400-0055 Who is eligible for the pregnant women assistance (PWA) program?** (~~Effective November 1, 2014;~~)

(1) The pregnant women assistance (PWA) program provides a state-funded cash stipend and a referral to the housing and essential needs (HEN) program under WAC 388-400-0065 to eligible low-income individuals. A referral to the HEN program is valid for twenty-four consecutive months from the date the department determines PWA eligibility.

(2) You can get pregnant women assistance (PWA), if you:

(a) Are pregnant as verified by a medical professional;  
(b) Meet the citizenship/alien status requirements of WAC 388-424-0010;

(c) Live in the state of Washington per WAC 388-468-0005;

(d) Do not live in a public institution unless specifically allowed under RCW 74.08.025;

(e) Meet TANF/SFA:

(i) Income requirements under chapter 388-450 WAC;

(ii) Resource requirements under chapter 388-470 WAC; and

(iii) Transfer of property requirements under chapter 388-488 WAC.

(f) Tell us your Social Security number as required under WAC 388-476-0005;

(g) Report changes of circumstances as required under WAC 388-418-0005; and

~~((2))~~ (3) If you are an unmarried pregnant minor your living arrangements must meet the requirements of WAC 388-486-0005.

~~((3))~~ (4) You cannot get PWA if you:

(a) Are eligible for temporary assistance for needy families (TANF) benefits;

(b) Are eligible for state family assistance (SFA) benefits;

(c) Refuse or fail to meet a TANF or SFA eligibility rule;

(d) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause; or

(e) Are eligible for supplemental security income (SSI) benefits.

AMENDATORY SECTION (Amending WSR 18-18-007, filed 8/23/18, effective 9/23/18)

**WAC 388-400-0070 Who is eligible for referral to the housing and essential needs (HEN) program?** (1) You are eligible for referral to the housing and essential needs (HEN) program if you:

(a) Apply for cash assistance as detailed in WAC 388-406-0010;

(b) Complete an interview with the department;

(c) Are incapacitated as defined in WAC 388-447-0001 through 388-447-0100;

(d) Are at least eighteen years old or, if under eighteen, legally emancipated or a member of a married couple;

(e) Are in financial need according to income rules in chapter 388-450 WAC and resource requirements in RCW 74.04.005 and chapter 388-470 WAC. We determine who is in your assistance unit according to WAC 388-408-0070;

(f) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;

(g) Meet the citizenship/alien status requirement for ABD cash assistance under WAC 388-424-0015;

(h) Meet the Social Security number verification requirement for cash assistance under WAC 388-476-0005;

(i) Meet the residency requirement for cash assistance under WAC 388-468-0005;

(j) Meet verification requirements for cash assistance detailed in WAC 388-490-0005.

(k) To remain eligible for HEN referral, you must also:

(i) Report changes in your circumstances as required for cash assistance under WAC 388-418-0007; and

(ii) Complete and return eligibility reviews we send you under WAC 388-434-0005.

(2) You are not eligible for referral to the HEN program if you:

(a) ~~((Are eligible for the pregnant women assistance (PWA) program;~~

~~((b)))~~ Are eligible for temporary assistance for needy families (TANF) program;

~~((c)))~~ (b) Refuse or fail to meet a TANF rule without good cause;

~~((d)))~~ (c) Refuse or fail to cooperate in obtaining federal aid assistance, including but not limited to medicaid, without good cause;

~~((e)))~~ (d) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-447-0120;

~~((f)))~~ (e) Are eligible for supplemental security income (SSI) benefits and receiving a state supplemental payment (SSP) under WAC 388-474-0012;

~~((g)))~~ (f) Are an ineligible spouse of an SSI recipient;

~~((h))~~ (g) Refuse or fail to follow a Social Security Administration (SSA) program rule or application requirement without good cause and SSA denied or terminated your benefits;

~~((i))~~ (h) Are terminated from ABD for refusing or failing to sign an interim assistance reimbursement authorization agreement under WAC 388-400-0060;

~~((j))~~ (i) Are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony as described in WAC 388-442-0010; or

~~((k))~~ (j) Are disqualified from receiving cash assistance due to a conviction related to unlawful practices in obtaining cash assistance as described in WAC 388-446-0005.

(3) If you reside in a public institution and meet all other requirements, your eligibility for referral to the HEN program depends on the type of institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.

(a) You may be eligible for referral to the HEN program if you are:

- (i) A patient in a public medical institution; or
- (ii) A patient in a public mental institution and are sixty-five years of age or older.

(b) You aren't eligible for referral to the HEN program if you are in the custody of or confined in a public institution such as a state penitentiary or county jail, including placement:

- (i) In a work release program; or
- (ii) Outside of the institution including home detention.

### WSR 20-13-037

#### EMERGENCY RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 10, 2020, 9:23 a.m., effective June 11, 2020]

Effective Date of Rule: June 11, 2020.

Purpose: The department is adopting emergency amendments to WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?, to support implementation of SB 6136 (chapter 64, Laws of 2020).

Citation of Rules Affected by this Order: Amending WAC 388-412-0046.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.580, 74.08.090.

Other Authority: Chapter 64, Laws of 2020.

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

Reasons for this Finding: Emergency adoption of these amendments are necessary [to] reflect changes in state law regarding restrictions on electronic benefit cards under SB 6136, effective June 11, 2020.

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

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

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

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

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

Date Adopted: June 5, 2020.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-03-054, filed 1/10/19, effective 2/10/19)

**WAC 388-412-0046 What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?** (1) What is the purpose of DSHS cash benefits?

(a) DSHS cash assistance benefits are provided to low-income residents who qualify for public assistance programs. These benefits are intended to help pay for basic living expenses as described under RCW 74.04.770. TANF cash grants must be used for the sole benefit of the children, and we may require proof that you are using your TANF cash assistance to benefit your children as allowed under RCW 74.12.260.

(b) Your electronic benefit transfer (EBT) card or cash assistance benefits may only be used by you, an eligible member of your household, or an authorized representative/protective payee for the purposes of your cash assistance program. You are not allowed to sell, attempt to sell, exchange, or donate your EBT card or benefits to any other person or entity.

(c) You may use your cash benefits to pay a reasonable amount of basic living expenses such as:

- (i) Shelter;
- (ii) Utilities such as heating, telephone, water, sewer, garbage, and recycling;
- (iii) Food;
- (iv) Transportation;
- (v) Clothing;
- (vi) Household maintenance;
- (vii) Personal hygiene;
- (viii) Employment or school related items; and
- (ix) Other necessary incidentals and items.

(d) It is not legal to use electronic benefit transfer (EBT) cards or cash obtained with EBT cards to:

- (i) Gamble. Gambling includes:
  - (A) The purchase of lottery tickets;
  - (B) The purchase of pull tabs;
  - (C) Use of punch boards;
  - (D) Purchase of bingo cards;

(E) Betting on horse racing;  
 (F) Participating in casino games; and  
 (G) Participating in other games of chance as found in chapters 9.46, 67.16 and 67.70 RCW.

(ii) Participate in or purchase any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(iii) Purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(iv) Purchase any ~~((alcoholic))~~ items regulated under Title 66 RCW;

(v) Purchase or participate in any activities in any of the following locations:

(A) Taverns licensed under RCW 66.24.330;

(B) Beer/wine specialty stores licensed under RCW 66.24.371, except if the store is an authorized supplemental nutrition assistance program or women, infants, and children retailer;

(C) Nightclubs licensed under RCW 66.24.600;

(D) ~~((Contract liquor stores defined under RCW 66.04.010;~~

~~((E)))~~ Bail bond agencies regulated under chapter 18.185 RCW;

~~((F)))~~ (E) Gambling establishments licensed under chapter 9.46 RCW;

(F) Tattoo, body piercing, or body art shops regulated under chapter 18.300 RCW;

(G) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150;

(H) Any establishments where persons under the age of eighteen are not permitted.

(e) If you use your electronic benefit transfer (EBT) card or cash obtained from your EBT card illegally we may:

(i) Assign a protective payee to manage your cash assistance benefits under WAC 388-460-0035;

(ii) For households receiving TANF, require proof that your benefits are being used for the benefit of the children in the household;

(iii) Terminate your cash benefits; or

(iv) Pursue legal action, including criminal prosecution.

(2) What is the purpose of DSHS food assistance benefits?

(a) DSHS food assistance benefits, including those from the basic food program, state funded basic food program for legal immigrants (FAP), Washington state combined application project (WASHCAP), and transitional food assistance (TFA), help low-income individuals and families have a more nutritious diet by providing food assistance benefits through EBT cards for eligible households to buy groceries.

(b) You, members of your household, or an authorized representative may use your food assistance benefits to buy food items for your household from a food retailer authorized to accept supplemental nutrition assistance program (SNAP) benefits by the U.S. Department of Agriculture Food and Nutrition Service (FNS).

(c) You can use your food assistance benefits to buy items such as:

(i) Breads and cereals;

(ii) Fruits and vegetables;

(iii) Cheese, milk, and other dairy products;

(iv) Meats, fish, poultry, and eggs;

(v) Most other food items that are not prepared hot foods; and

(vi) Seeds and plants that produce food.

(d) It is not legal to:

(i) Give your EBT card or benefits to anyone who is not in your food assistance household or your authorized representative.

(ii) Use food benefits for any purpose other than to buy food for eligible household members.

(iii) Exchange food benefits for anything of value (trafficking). Examples of illegal trafficking include exchanging food benefits or attempting to exchange food benefits for cash, drugs, weapons, or anything other than food from an authorized retailer.

(iv) Sell, attempt to sell, exchange, or donate an EBT card, EBT card number, personal identification numbers (PINs), or any benefits to any person or entity.

(v) Buy, attempt to buy, or steal someone's EBT card, EBT card number, or PIN.

(vi) Sell or trade any food that was purchased using food assistance benefits for cash, drugs, alcohol, tobacco products, firearms, or anything of value.

(vii) Use food benefits to buy nonfood items such as cigarettes, tobacco, beer, wine, liquor, household supplies, soaps, paper products, vitamins, medicine, or pet food.

(viii) Commit any other act in violation of the Food Nutrition Act of 2008, regulations for the supplemental nutrition assistance program (SNAP) under Title 7 of the Code of Federal Regulations or any Washington state administrative code relating to the use, presentation, transfer, acquisition, receipt, trafficking, or possession of food assistance benefits.

(e) If you intentionally misuse food assistance benefits, you may be:

(i) Disqualified for an intentional program violation under WAC 388-446-0015 and 388-446-0020. If you are disqualified you will lose your benefits for at least one year and up to a lifetime. The disqualification continues even if you move to another state.

(ii) Subject to fines.

(iii) Subject to legal action, including criminal prosecution. DSHS will cooperate with state, local, and federal prosecuting authorities to prosecute trafficking in food assistance/SNAP benefits.

### WSR 20-13-038

#### EMERGENCY RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 20-102—Filed June 10, 2020, 10:20 a.m., effective June 22, 2020, 6:00 a.m.]

Effective Date of Rule: June 22, 2020, 6 a.m.

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



Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

This rule opens 2020 tribal summer commercial fisheries above and below Bonneville Dam and is consistent with actions of the Columbia River Compact of June 8, 2020.

Citation of Rules Affected by this Order: Amending WAC 220-359-020.

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

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

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

Reasons for this Finding: This rule is consistent with actions of the Columbia River Compact on June 8, 2020, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

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

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

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

Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: June 9, 2020.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-359-02000Y Columbia River salmon seasons** Effective 6:00 a.m. June 22, 2020 and until further notice or until this rule expires on October 7, 2020 the following provisions of WAC 220-301-010, WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090 regarding tribal commercial fisheries above and below Bonneville Dam, shall be as described below. All other provisions of WAC 220-301-010, WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090 not addressed herein, or unless amended by emergency rule, remain in effect:

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

(a) Season: 6:00 AM Monday June 22 to 6:00 PM Wednesday, June 24, 2020

(b) Gear: Set and Drift Gillnets with a 7" minimum mesh size restriction.

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length may be kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear, except for the Spring Creek Hatchery sanctuary is not in effect during the summer management period that runs from June 16 through July 31, 2020.

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

(a) Season: 6:00 AM June 22 through 11:59 PM July 31, 2020.

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

(c) Allowable sale: Salmon (any species) and steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be sold, but sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear, except for the Spring Creek Hatchery sanctuary is not in effect during the summer management period that runs from June 16 through July 31, 2020.

3) Open Areas: SMCRA 1E1 (Downstream of Bonneville Dam)

(a) Season: 6:00 AM June 22 through 11:59 PM July 31, 2020, only during days and times opened under tribal rules.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon may not be retained in the fisheries downstream of Bonneville Dam.

4) Open Areas: Wind River, Drano Lake, and Klickitat River

(a) Season: 6:00 AM June 22 until further notice, only during those days and hours when the tributaries listed are open under lawfully enacted Yakama Nation tribal subsistence fishery regulations for enrolled Yakama Nation members.

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

(c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool may be kept for subsistence.

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

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

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

**WSR 20-13-049**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-104—Filed June 11, 2020, 3:21 p.m., effective June 20, 2020]

Effective Date of Rule: June 20, 2020.

Purpose: Effective March 1, 2020, the Washington department of fish and wildlife (WDFW) adopted WAC 220-312-03000I (WSR 20-06-017 filed on February 21, 2020) to implement salmon fishery closures in rivers in southwest Washington, including the Cowlitz River. The purpose of this rule is to be responsive to new scientific information regarding the low returns of Cowlitz Salmon Hatchery spring Chinook broodstock and extend the Chinook retention closure originally adopted in WSR 20-06-017 through July 31, 2020.

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

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary because current numbers show that the Cowlitz Salmon Hatchery spring Chinook return is extremely depressed. The hatchery escapement goal is one thousand three hundred ten Chinook. In response to the preseason run-size forecast, which was the only information available at the time the prior emergency rule was adopted, the estimated return to the hatchery was one thousand two hundred forty-two Chinook. The closure effective March 1, 2020, was necessary as the return estimate was lower than the escapement goal.

As of June 7, 2020, the hatchery has had a total of eighty-three spring Chinook return, which [is] less than twelve percent of the number of returns that had been expected based on the preseason run forecast (seven hundred thirty-seven Chinook). Based on historical averages, the Cowlitz River spring Chinook run is forty-nine to fifty-six percent complete, which means that total broodstock collection is projected to [be] at ten to thirteen percent of what is needed under the assumption that the Chinook nonretention rule remains in place. Therefore, this emergency rule is needed to extend the closure to maximize broodstock returns - without it, the actual number of returns could be less than ten percent.

In addition to addressing this shortfall through fishing rule changes the department is currently discussing contingency plans including using Kalama River stock spring Chinook as backfill for the Cowlitz Salmon Hatchery.

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 Non-governmental 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: June 11, 2020.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-03000L Freshwater exceptions to statewide rules—Southwest.** Effective June 20, 2020 through July 31, 2020 the provisions of WAC 220-312-030 regarding salmon seasons for Cispus River, Cowlitz Falls Reservoir, and Cowlitz River shall be modified as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended:

- 1) **Cispus River (Lewis Co.):** It is unlawful to retain Chinook.
- 2) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis Co.):** It is unlawful to retain Chinook.
- 3) **Cowlitz River (Cowlitz Co.):** It is unlawful to retain Chinook.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2020:

WAC 220-312-03000L Southwest—Freshwater exceptions to statewide rules.

**WSR 20-13-050**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-105—Filed June 11, 2020, 4:27 p.m., effective June 12, 2020]

Effective Date of Rule: June 12, 2020.

Purpose: This rule is needed to repeal modifications made to Klickitat River salmon seasons in order to return them to permanent rules. This rule also carries forward emergency rules previously put in place regarding salmon and steelhead seasons for Cispus River, Cowlitz Falls Reservoir, Cowlitz River, Drano Lake, Kalama River, and Wind River.

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

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

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

Reasons for this Finding: The Klickitat River adult salmon daily limit was previously reduced by emergency rule to ensure broodstock collection goals for spring Chinook were achieved. Fishery comanagers have determined that the broodstock collection goals are expected to be met and reductions to the daily limit are no longer necessary. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental 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: June 11, 2020.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-312-03000M Freshwater exceptions to statewide rules—Southwest.** Effective June 12, 2020 and until further notice or until this rule expires on September 25, 2020 the provisions of WAC 220-312-030 regarding salmon and steelhead seasons for Cispus River, Cowlitz Falls Reservoir, Cowlitz River, Drano Lake, Kalama River, and Wind River shall be modified as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended:

1) **Cispus River (Lewis Co.):** effective immediately until further notice or until this expires on June 20, 2020:

Chinook salmon: closed.

2) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis Co.):** effective immediately until further notice or until this expires on June 20, 2020:

Chinook salmon: closed.

3) **Cowlitz River (Cowlitz Co.):** effective immediately until further notice or until this expires on June 20, 2020:

Chinook salmon: closed.

4) **Drano Lake (Skamania Co.):** In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of Highway 14 bridge, effective immediately and until further notice or until this expires on September 25, 2020:

Salmon and steelhead: closed.

5) **Kalama River (Cowlitz Co.):** From the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery, effective immediately until further notice or until this expires on June 20, 2020:

Salmon: Daily limit 6; up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.

Salmon: closed.

6) **Wind River (Skamania Co.):** From the mouth to 800 yards downstream of Carson National Fish Hatchery, effective immediately and until further notice or until this expires on September 25, 2020:

Salmon and steelhead: closed.

REPEALER

The following section of the Washington Administrative Code is repealed effective June 12, 2020:

WAC 220-312-03000K Southwest—Freshwater exceptions to statewide rules. (20-93)

**WSR 20-13-055**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-108—Filed June 12, 2020, 2:18 p.m., effective June 12, 2020,  
 2:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule is a matter of housekeeping and needed to fix a typo in the text of WAC 220-312-03000M (WSR 20-13-050), adopted June 11, 2020.

The previous filing of WSR 20-13-050 repealed modifications made to Klickitat River salmon seasons in order to return them to permanent rules.

This rule also carries forward emergency rules previously put in place regarding salmon and steelhead seasons for Cispus River, Cowlitz [Cowlitz] Falls Reservoir, Cowlitz River, Drano Lake, Kalama River, and Wind River.

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

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

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

Reasons for this Finding: This rule is necessary to remove a line that was inadvertently left in the text of the previous filing of WSR 20-13-050 that placed competing salmon rules on the Kalama River. The removal of the text will make clear that the daily adult salmon limit has been reduced to one fish as the rule was intended and as it was written when initially adopted in WAC 220-312-03000I (WSR 20-06-017).

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

Number of Sections Adopted at the Request of a Non-governmental 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: June 12, 2020.

Kelly Susewind  
 Director

NEW SECTION

**WAC 220-312-03000P Freshwater exceptions to statewide rules—Southwest.** Effective immediately and until further notice or until this rule expires on September 25,

2020 the provisions of WAC 220-312-030 regarding salmon and steelhead seasons for Cispus River, Cowlitz Falls Reservoir, Cowlitz River, Drano Lake, Kalama River, and Wind River shall be modified as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended:

1) **Cispus River (Lewis Co.):** effective immediately until further notice or until this expires on June 20, 2020:

Chinook salmon: closed.

2) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis Co.):** effective immediately until further notice or until this expires on June 20, 2020:

Chinook salmon: closed.

3) **Cowlitz River (Cowlitz Co.):** effective immediately until further notice or until this expires on June 20, 2020:

Chinook salmon: closed.

4) **Drano Lake (Skamania Co.):** In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of Highway 14 bridge, effective immediately and until further notice or until this expires on September 25, 2020:

Salmon and steelhead: closed.

5) **Kalama River (Cowlitz Co.):** From the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery, effective immediately until further notice or until this expires on June 20, 2020:

Salmon: Daily limit 6; up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.

6) **Wind River (Skamania Co.):** From the mouth to 800 yards downstream of Carson National Fish Hatchery, effective immediately and until further notice or until this expires on September 25, 2020:

Salmon and steelhead: closed.

REPEALER

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

WAC 220-312-03000M Southwest—Freshwater exceptions to statewide rules. (20-105)

**WSR 20-13-058**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-109—Filed June 15, 2020, 10:14 a.m., effective June 18, 2020]

Effective Date of Rule: June 18, 2020.

Purpose: This rule is needed to increase the daily limit of spot shrimp in Marine Area 6 to offset lost recreational opportunity during the month of May due to the COVID-19 situation.

Citation of Rules Affected by this Order: Amending WAC 220-330-010.

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: Do [Due] to COVID-19 related closures, out of an abundance of caution and through coordination with local and state health officials, recreational shrimp fisheries were opened later than originally planned, including the shrimp fishery in Marine Area 6. This fishery typically opens in early May. This year it didn't open until May 28 due to the COVID-19 situation. The expansion of daily limits will offset some of the missed opportunity during much of the month of May. The recreational share of the harvestable shrimp quota in Marine Area 6 is sufficient to support an increase in the daily limit while ensuring that the fishery remains within the bounds of court ordered sharing requirements and meets conservation objectives. 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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: June 12, 2020.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-330-01000K Shellfish—Daily limits.** Effective June 18, 2020 and until further notice or until this rule expires on October 10, 2020 the provisions of WAC 220-330-010 (9)(b) regarding shrimp daily limits for Marine Area 6 (excluding the Discovery Bay Shrimp District) shall be modified as described below. All other provisions of WAC 220-330-010 (9)(b) not addressed herein remain in effect unless otherwise amended by emergency rule:

Marine Area 6 (excluding the Discovery Bay Shrimp District): During open periods, daily shrimp limit is total weight 10 pounds, maximum 120 spot shrimp as part of the 10-pound limit.

#### **WSR 20-13-059**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed June 15, 2020, 1:57 p.m., effective June 15, 2020, 1:57 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-817-120 Examination content, the dental quality assurance commission received a request from the University of Washington, School of Dentistry and other dental organizations to approve a new nonpatient based clinical exam. The Joint Commission on National Dental Examination's (JCNDE) Dental Licensure Objective Structured Clinical Examination (DLOSCE) is a practical/clinical examination that is computer-based and does not use live patients.

Citation of Rules Affected by this Order: Amending WAC 246-817-120.

Statutory Authority for Adoption: RCW 18.32.0365.

Other Authority: RCW 18.32.040 and 18.32.002.

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

Reasons for this Finding: In response to the coronavirus disease (COVID-19) pandemic, all regional, patient-based clinical dentist examinations are cancelled for 2020 in the United States. Graduating dentist students from the University of Washington and Oregon Health and Science University will be unable to obtain Washington state dentist licensure unless they take a practical/clinical examination.

Standard rule making takes approximately nine to twelve months. Since patient-based examinations are suspended for the remainder of the year, dentist students expecting to graduate in June 2020 will not have the ability to earn Washington state dentist licensure until next year. The JCNDE has been creating the DLOSCE since 2017 with a planned release in spring of 2021. In response to COVID-19, JCNDE announced an early release of the examination in June 2020. Adding DLOSCE to the list of allowable practical/clinical examinations will allow current graduates the opportunity to obtain Washington state dentist licensure while other examinations are temporarily unavailable.

The immediate amendment of these existing rules is necessary for the preservation of public health, safety, and general welfare. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests.

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

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

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

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

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

Date Adopted: June 15, 2020.

Julia Richman D.D.S., Chairperson  
Dental Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 19-15-094, filed 7/22/19, effective 8/22/19)

**WAC 246-817-120 Examination content.** (1) An applicant seeking dentist licensure in Washington by examination, must successfully pass a written and practical examination approved by the Dental Quality Assurance Commission (commission).

The examination will consist of:

(a) A written examination. The Integrated National Board Dental Examination, Parts I and II of the National Board Dental Examination, or the Canadian National Dental Examining Board examination will be accepted, except as provided in subsection (4) of this section.

(b) A practical examination containing at least the following sections:

- (i) Restorative;
- (ii) Endodontic;
- (iii) Periodontal;
- (iv) Prosthodontic; and
- (v) Comprehensive treatment planning or diagnostic skills.

(2)(a) The commission accepts the following practical examinations provided the testing agency offers at least the sections listed in subsection (1)(b) of this section:

- (i) The Western Regional Examining Board's (WREB) clinical examination;
- (ii) The Central Regional Dental Testing Services (CRDTS) clinical examination;
- (iii) The Commission on Dental Competency Assessments (CDCA) formally known as Northeast Regional Board (NERB) clinical examination;
- (iv) The Southern Regional Testing Agency (SRTA) clinical examination;
- (v) The Council of Interstate Testing Agency's (CITA) clinical examination;
- (vi) U.S. state or territory with an individual state board clinical examination;

(vii) The Joint Commission on National Dental Examinations dental licensure objective structured clinical examination (DLOSCE); or

(b) The commission will accept the complete National Dental Examining Board (NDEB) of Canada clinical examination as meeting its standards if the applicant is a graduate of an approved dental school defined in WAC 246-817-110 (2)(a).

(3) The applicant must pass all sections listed in subsection (1)(b) of this section of the practical examination with the same testing agency.

(4) The commission will only accept results of approved practical examinations taken within the preceding five years from the date of an application for licensure.

(5) The commission may, at its discretion, give or require an examination in any other subject under subsection (1)(a) and (b) of this section, whether in written or practical form or both written and practical.

## WSR 20-13-061

### EMERGENCY RULES

### DEPARTMENT OF LICENSING

[Filed June 15, 2020, 2:43 p.m., effective June 15, 2020, 2:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is filing an emergency rule to address the backlog of license renewals related to COVID-19. Due to the department's move from Venture to POLARIS, the ability to process renewals will be halted before the backlog can be resolved. In order to keep those who have submitted a license renewal active while transitioning from one system to the other, the department is adopting WAC 308-108-030 Addressing license renewal backlog. The department will not determine or treat any license that is expiring between June 1 and July 15 as expired until August 1, 2020. Licensees still must renew timely in order to avoid any enforcement action against their license.

Citation of Rules Affected by this Order: New WAC 308-108-030 Addressing license renewal backlog.

Statutory Authority for Adoption: RCW 46.01.110.

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

Reasons for this Finding: Failure to take action would not only impact driver training schools, if the department did not adopt this rule, students of these schools could experience difficulties in being issued a license.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: June 15, 2020.

Damon Monroe  
Rules Coordinator

NEW SECTION

**WAC 308-108-030 Addressing license renewal backlog.** The department will not determine or treat any license that is expiring between June 1st and July 15th as expired until August 1, 2020. A licensee still must renew timely in order to avoid any enforcement action against their license.

**WSR 20-13-066  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 20-111—Filed June 15, 2020, 5:09 p.m., effective June 15, 2020,  
5:09 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule is needed to ensure that anglers retain lingcod seaward of the one hundred twenty-foot depth restriction line in Marine Area 5 only on days with seasons open for both lingcod and halibut.

Citation of Rules Affected by this Order: Repealing WAC 220-314-03000X and 220-314-03000Y; and amending WAC 220-314-030.

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

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

Reasons for this Finding: This rule is needed to clarify that in Marine Area 5, lingcod retention is allowed seaward of the one hundred twenty foot depth restriction only on days with seasons open for both lingcod and halibut. Without this rule change, anglers might interpret the rule as allowing lingcod retention seaward of the one hundred twenty-foot depth restriction on days that halibut seasons are open, but lingcod seasons are closed.

This rule is in line with federal action taken by the Pacific Fisheries Management Council, International Pacific Halibut Commission and the interim final rule adopted by the National Marine Fisheries Service. The recreational halibut quota is sufficient to provide for these seasons.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

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: June 15, 2020.

Kelly Susewind  
Director

NEW SECTION

**WAC 220-314-03000Y Halibut—Seasons—Daily and possession limits.** Notwithstanding the provisions of WAC 220-314-030, 220-314-040, and 220-314-010, effective immediately through June 29, 2020, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section. All other provisions of WAC 220-314-030, 220-314-040, and 220-314-010 not addressed herein, and unless otherwise amended, remain in effect:

**Catch Record Card Area 5 through 10:** Open June 15, 17, 19, 21, 23, 25, 27, 29:

(a) On season days that are open to both lingcod and halibut fishing in Marine Area 5, it is permissible for halibut anglers to retain lingcod caught while fishing for halibut in waters deeper than 120 feet.

(b) It is permissible for halibut anglers to retain Pacific cod caught while fishing for halibut in waters deeper than 120 feet on days when halibut fishing is open in Area 5

(c) Daily limit one halibut, no minimum size limit. The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

(d) It is unlawful to land halibut in a port within an area closed to halibut fishing.

(e) Annual halibut limit is four.

(f) All other permanent rules remain in effect.

REPEALER

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

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

The following section of the Washington Administrative Code is repealed effective June 30, 2020:

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

**WSR 20-13-067  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 20-107—Filed June 15, 2020, 5:12 p.m., effective June 20, 2020]

Effective Date of Rule: June 20, 2020.

Purpose: Effective March 1, 2020, the Washington department of fish and wildlife (WDFW) adopted WAC 220-312-03000I (WSR 20-06-017 filed on February 21, 2020) to implement salmon fishery closures and reductions in daily

limits in rivers in southwest Washington, including the Kalama River and Cowlitz River. The purpose of this rule is to be responsive to new scientific information regarding the low returns of Cowlitz Salmon Hatchery spring Chinook broodstock by extending the adult salmon daily limit reduction in the Kalama River originally adopted in WSR 20-06-017 through July 31, 2020.

This emergency rule allows a six salmon daily limit of which no more than one may be an adult, anglers must release all salmon other than hatchery Chinook and hatchery coho. By comparison, the permanent rule allows a six fish daily limit, up to two adults may be retained, release all salmon other than hatchery Chinook and hatchery coho. So, the difference is a reduction from two to one adults per day.

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

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

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

Reasons for this Finding: This emergency rule is necessary because WDFW anticipates Kalama River spring Chinook stock will be needed to backfill Cowlitz River spring Chinook broodstock. Current numbers show that the Cowlitz Salmon Hatchery spring Chinook return is extremely depressed while Kalama broodstock goals are now expected to be met. The possibility of using Kalama stock to backfill for Cowlitz was mentioned in WSR 20-13-049, filed on June 11, 2020. Using broodstock from one river within the broader system to supplement low hatchery returns in another river is anticipated by WDFW's hatchery program; however, this practice requires approval by NOAA and coordination with Tacoma Power. Therefore, WDFW has [been] discussing this contingency with NOAA and Tacoma Power as part of a package to address the Cowlitz broodstock shortfall.

A reduction in the adult salmon daily limit for Kalama River, that initiated on March 1, 2020, has resulted in putting Kalama River Hatchery broodstock collection on track to meet broodstock goals (670 HOR Chinook) and ahead of pre-season projections (590 HOR Chinook), while continuing to provide angling opportunity. Kalama Falls Hatchery, as of June 7, 2020, has four hundred eighty HOR Chinook on hand, about one hundred seventy-four percent of the brood goal of two hundred seventy-six through June 7. Extending this rule is necessary to ensure that additional broodstock are available to address the shortfall of Cowlitz River Hatchery spring Chinook returns and will continue to provide angling opportunity for spring Chinook within the Kalama River.

The Cowlitz Salmon Hatchery escapement goal is one thousand three hundred ten Chinook. In response to the pre-season run-size forecast of one thousand two hundred forty-two Chinook, a closure on Chinook retention in the Cowlitz basin was enacted on March 1. Chinook nonretention was further extending [extended] through July 31, 2020, with WSR 20-13-049 in response to new scientific data showing that as of June 7, 2020, the Cowlitz Salmon Hatchery spring

Chinook returns on hand (83 HOR Chinook) is less than twelve percent of what was expected (737 HOR Chinook). Even with the continued nonretention of Chinook in the Cowlitz basin, total Cowlitz River broodstock collection is projected to be ten to thirteen percent of what is needed. Thus, supplementation of Cowlitz spring Chinook with other stocks is a most likely necessity.

Using Kalama River stock to backfill for Cowlitz River stock is one of multiple management strategies being employed or considered by WDFW. The necessity of this reduction is unlikely to change prior to its expiration date of July 31, 2020, but will continue to be evaluated should circumstances change.

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 Non-governmental 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: June 15, 2020.

Amy H. Windrope  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-312-03000N Freshwater exceptions to statewide rules—Southwest.** Effective June 20 through July 31, 2020, the provisions of WAC 220-312-030 regarding salmon seasons for Kalama River shall be modified as described below. All other provisions of WAC 220-312-030 not addressed herein remain in effect unless otherwise amended:

**Kalama River (Cowlitz Co.):** From the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery:

Salmon: Daily limit 6; up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective August 1, 2020:

WAC 220-312-03000N Southwest—Freshwater exceptions to statewide rules.

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



**WSR 20-13-068**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-100—Filed June 15, 2020, 5:27 p.m., effective June 20, 2020]

Effective Date of Rule: June 20, 2020.

Purpose: This rule is needed to reopen recreational fisheries in Marine Area 4, effective June 20, 2020, which was previously closed due to the COVID-19 situation and to comply with Governor Inslee's statewide Proclamation to "Stay Home, Stay Healthy." Reopening these recreational fisheries is consistent with the Governor's Proclamation amendment 20-25.2 for the partial reopening of outdoor recreational activities. Additionally, Clallam County entered Phase 2 of the governor's reopening plan on June 1.

This rule returns Marine Area 4 fish and shellfish fisheries to permanent rules, unless otherwise amended by emergency rule. The recreational fisheries reopening under this emergency rule include coastal bottomfish, sturgeon, gamefish, forage fish, coastal crab, coastal shrimp, other coastal food fish and shellfish.

Citation of Rules Affected by this Order: Repealing WAC 220-310-16000B, 220-310-08000C, 220-313-07000W, 220-314-02000G, 220-316-01000B, and 220-330-01000J.

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

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

Reasons for this Finding: This rule is needed to reopen recreational fishing opportunities in Marine Area 4, effective June 20, 2020, pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted. In addition, these openings have been coordinated with local and state health officials.

The governor's proclamation amendment also includes requirements to exclude gatherings with people who are not members of the same household and maintain social distancing for the continued protection of public health and safety. The fishery openings considered that requirement as a basis for the decision to reopen fisheries, but do not incorporate those social distance elements within the regulations themselves. While not imposed in the Washington department of fish and wildlife's (WDFW) fishery rules, they are and remain, a requirement of the governor's proclamation. Failure to abide by those social distance requirements could result in increased health risks requiring future fishery closures.

Marine Areas 1-4 remain closed to recreational halibut fishing in permanent rules.

Additionally, it is WDFW's understanding that the Makah tribal reservation, which includes the port of Neah Bay, remains closed to nontribal members. Therefore, while Marine Area 4, both east and west of the Bonilla-Tatoosh Line, is reopening under this emergency rule, anglers will need to access area 4 from Marine Areas 3 or 5.

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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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: June 15, 2020.

Amy H. Windrope  
for Kelly Susewind  
Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m., June 20, 2020:

- WAC 220-310-16000B Daily limits of forage fish and other food fish not otherwise provided for. (20-88)
- WAC 220-310-08000C Game fish seasons—General rules. (20-88)
- WAC 220-313-07000W Coastal salmon—Saltwater seasons and daily limits. (20-88)
- WAC 220-314-02000G Possession limit—Bottomfish. (20-88)
- WAC 220-316-01000B Sturgeon—Areas, seasons, limits and unlawful acts. (20-88)
- WAC 220-330-01000J Shellfish—Daily limits. (20-94)

**WSR 20-13-086**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-110—Filed June 16, 2020, 1:17 p.m., effective June 16, 2020, 1:17 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule is needed to close commercial spot shrimp harvest in subsection 23 A-E.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000N; and amending WAC 220-340-520.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 2020 state/tribal shrimp harvest management plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule (1) defines the shrimp management areas and regions open to spot and non-spot commercial harvest; (2) sets harvest restrictions for and opens the nonspot commercial pot fishery; (3) sets harvest restrictions for and opens the spot commercial pot fishery; (4) sets the harvest and gear limitations for and opens the Puget Sound shrimp trawl fishery; (5) requires purchase of shrimp harvested by the designated fisheries to be done by appropriately licensed dealers; and (6) closes subarea 23A-East to state commercial harvest of spot shrimp due to the attainment of quota (8,000 pounds).

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 Non-governmental 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: June 16, 2020.

Kelly Susewind  
Director

## NEW SECTION

**WAC 220-340-52000P Puget Sound shrimp pot and trawl fishery—Season.** Effective immediately and until further notice, or until this rule expires on August 28, 2020 pursuant to RCW 34.05.350, the following provisions of WAC 220-340-520 regarding Puget Sound commercial shrimp pot harvest, non-spot shrimp harvest, spot shrimp harvest, trawl shrimp harvest and sales shall be described below. All other provisions of WAC 220-340-520 not addressed herein, and unless otherwise amended, remain in effect:

(1) Shrimp Pot Harvests:

(a) All waters of Shrimp Management Areas 1A, 1B, 1C, 2E, 2W and 3 are open to the harvest of all shrimp species, effective immediately, until further notice, except as provided for in this section:

(i) All waters of Marine Fish/Shellfish Management and Catch Reporting Areas (Catch Areas) 23A-E, 23A-W, 23A-C, and 23A-S are closed to the harvest of non-spot shrimp until the spot quota is attained in all sub-areas of 23A. Catch Areas 23A-E, 23A-W, 23A-C, and 23A-S AE are within Shrimp Management Area 3 and comprise Catch Area 23A.

(ii) Effective immediately it is unlawful to harvest spot shrimp from sub-area 23A-E.

(iii) Shrimp Management Area 1A is closed to harvest of non-spot shrimp until the spot shrimp quota is attained in all Catch Areas of 1A. Shrimp Management Area 1A is comprised Catch Areas 20B and 22A.

(iv) Discovery Bay Shrimp District is closed to the harvest of all shrimp species.

(v) Shrimp Management Areas 1B, 2E, and 2W are closed to the harvest of spot shrimp.

(b) It is unlawful to harvest non-spot and spot shrimp in the same day.

(c) It is unlawful to harvest shrimp in more than one Shrimp Management Area per day.

(2) Shrimp Non-spot Pot Harvest Restrictions

(a) The non-spot shrimp catch accounting period is weekly from Wednesday through Tuesday, totaling 7 days in length.

(b) It is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds per shrimp catch accounting week from Shrimp Management Areas 1B, 1C, 2E, and 2W combined.

(c) Harvest of non-spot shrimp is not permitted deeper than 175 feet in Region 2W. Region 2W is comprised of Catch Areas 25B, 25C, 25D, and 26AW.

(d) Harvest of non-spot shrimp is not permitted deeper than 150 feet in Region 2E. Region 2E is comprised of Catch Areas 24A, 24B, 24C, 24D, and 26AE (26A northerly of a line drawn from the southern tip of Possession Point on Whidbey Island 110° true to the shipwreck on the opposite shore).

(3) Shrimp Spot Pot Harvest Restrictions:

(a) The initial spot shrimp catch accounting period is from May 5 through 11:59 p.m. on Tuesday, July 14, 2020.

(b) For the catch accounting period defined in 3(a) of this rule each fisher or alternate operator is required to report their intended catch area of harvest prior to the deployment of any spot shrimp gear to either [shrimp.report@dfw.wa.gov](mailto:shrimp.report@dfw.wa.gov) or by text message to 360-302-6372.

(c) It is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 2000 pounds for the initial catch accounting period from Shrimp Management Areas 1A, 1C, and 3 combined.

(d) The second spot shrimp catch accounting period is biweekly from Wednesday through Tuesday, totaling 14 days in length, it is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 1200 pounds per catch accounting period from Shrimp Management Areas 1A, 1C, and 3 combined.

(4) Shrimp trawl gear:

(a) Shrimp Management Area (SMA) 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.

(b) That portion of Catch Area 22A within SMA 1B east of a line projected 122.47°W longitude and west of a line projected 122.43°W longitude in Rosario Strait is open.

(c) The remaining portion of Catch Area 22A within SMA 1B is open effective immediately, until further notice, or until this expire on August 28, 2020.

(5) All shrimp taken under this section must be sold to licensed Washington State wholesale fish dealers.

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

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

## REPEALER

The following section of Washington Administrative Code is repealed:

WAC 220-340-52000N Puget Sound shrimp pot trawl fishery—Season. (20-89)

**WSR 20-13-095**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-106—Filed June 17, 2020, 8:52 a.m., effective June 20, 2020]

Effective Date of Rule: June 20, 2020.

**Purpose:** The purpose of this rule is to open ocean recreational salmon seasons in Marine Areas 1-4 in state waters in a manner consistent with federal salmon fishing regulations adopted by the National Marine Fisheries Service in response to actions taken by the Pacific Fishery Management Council (PFMC) to set annual salmon fishery harvest specifications and management measures; this action is intended to achieve regulatory consistency in federal and state waters for the ocean recreational salmon fishery, which operates in both areas.

**Citation of Rules Affected by this Order:** Repealing WAC 220-313-07000X; and amending WAC 220-313-070.

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

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

**Reasons for this Finding:** The ocean recreational salmon fishing seasons are developed and considered through the annual PFMC process, which coincides with the North of Falcon salmon season setting process and is managed under the Pacific Coast Salmon Fishery Management Plan (FMP). By managing this fishery under the FMP, it is required to be consistent with National Standard Guidelines, which ensure conservation objectives are achieved as well as long-term fishery sustainability, and that the social and economic needs of fishing communities are taken into account.

Because the ocean recreational salmon fishery occurs in Pacific Ocean waters across multiple jurisdictions (states of Washington and Oregon, tribal, and federal), developing and considering ocean recreational salmon season options through PFMC ensures that fishing regulations are developed in a comprehensive, coordinated manner. Having consistent regulations in state and federal waters also promotes compliance with and enforcement of fishing regulations, particularly as anglers often fish in both state and federal waters on the same fishing trip.

While these regulations are being adopted through an emergency rule, the department is in the process of adopting permanent rules that are consistent with this emergency rule and with the seasons developed by PFMC. These rules were developed and considered through an extensive open public process, which began in late December 2019, when PFMC announced the start of the 2020-21 season setting process. The process includes multiple opportunities for public engagement - throughout the course of a three-month process, the public may: Submit written comments, provide testimony at the March and/or April PFMC meetings, attend public hearings held in each west coast state, or provide comment through representation on the PFMC's salmon advisory subpanel.

Following the adoption of these seasons at its April meeting, PFMC formally transmitted these regulations to the National Marine Fisheries Service (NMFS) for consistency determination. This transmittal occurred on April 15, 2020, and the NMFS final rule that opened this fishery was published on May 8, 2020. Given that the NMFS final rule opens recreational salmon fishing off the coast on June 20, and that there is insufficient time for WDFW to adopt consistent permanent regulations by that date, emergency rule is needed to open state waters concurrently with federal waters.

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 Non-governmental 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: June 17, 2020.

Kelly Susewind  
Director

## NEW SECTION

**WAC 220-313-07000X Coastal salmon—Saltwater seasons and daily limits.** Effective June 20 through September 30, 2020 the provisions of WAC 220-313-070 regarding recreational salmon seasons for Marine Areas 1 through 4

shall be as described below. All other provisions of WAC 220-313-070 not addressed herein remain in effect unless otherwise amended:

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

(a) Open June 20, 2020 through June 28, 2020:

(i) Daily limit of 1 salmon.

(ii) Release all coho.

(iii) Chinook minimum length 22 inches.

(b) Open June 29, 2020 until further notice:

(i) Daily limit of 2 salmon; no more than one may be a Chinook.

(ii) Release wild coho.

(iii) Chinook minimum length 22 inches.

(c) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-313-020.

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

(a) Open June 20, 2020 through June 28, 2020:

(i) Daily limit of 1 salmon.

(ii) Release all coho.

(iii) Chinook minimum length 22 inches.

(b) Open June 29, 2020 until further notice:

(i) Open Sundays through Thursdays only (closed Fridays and Saturdays).

(ii) Daily limit of 2 salmon; no more than one may be a Chinook.

(iii) Release wild coho.

(iv) Chinook minimum length 22 inches.

(v) Beginning August 10, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3 (46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).

**(3) Willapa Bay (Catch Record Card Area 2-1):** June 20 through July 31: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

**(4) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):**

(a) June 20 through August 9: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(b) August 10 until further notice: Closed.

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

(a) Open June 20, 2020 through June 28, 2020:

(i) Daily limit of 1 salmon.

(ii) Release all coho.

(b) Open June 29, 2020 until further notice:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

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

(a) Waters east of a true north-south line through Sail Rock are closed through July 31.

(b) Open June 20, 2020 through June 28, 2020:

(i) Daily limit of 1 salmon.

(ii) Release all coho.

(c) Open June 29, 2020 until further notice:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) No chinook retention in waters east of the Bonilla-Tatoosh line beginning August 1.

(iv) Release chum salmon beginning August 1.

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

**REPEALER**

The following of the Washington Administrative Code is repealed effective October 1, 2020:

WAC 220-313-07000X Coastal salmon—Saltwater seasons and daily limits.

**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.