WSR 26-01-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-300—Filed December 3, 2025, 3:08 p.m., effective December 5, 2025]

Effective Date of Rule: December 5, 2025.

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

WAC 220-340-45500F opens Subregion 3-1 to commercial crab harvest on December 5, 2025, and maintains previously announced Puget Sound commercial crab seasons.

WAC 220-340-47000E sets the pot limits in Region 3-1 to 25 pots per license and maintains previously announced pot limits by area.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500E and 220-340-47000D; and amending WAC 220-340-455 and 220-340-470.

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

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

Reasons for this Finding: This emergency rule opens Region 3-1 to commercial crab harvest effective 8:00 a.m. on December 5, 2025, and sets the pot limits for Region 3-1 to 25 pots per license. There is sufficient allocation remaining to allow harvest in the Puget Sound commercial crab fishery in Regions 2E, 2W, 3-1, 3-2, 3-3, and 3-4. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made, pending updated harvest data.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.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: December 3, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500F Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455; effective December 5, 2025, until further notice:

Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the table in this section. Harvest for these areas is permitted starting one hour before official sunrise until further notice, unless otherwise indicated below. Any closures take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Closed.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Closed.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	8:00 am on December 5, 2025, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	8:00 am on December 5, 2025, until further notice.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	8:00 am on December 5, 2025, until further notice.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	8:00 am on December 5, 2025, until further notice.
Subregion 3-1	8:00 am on December 5, 2025, until further notice.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Immediately, until further notice.

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

NEW SECTION

WAC 220-340-47000E Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas Notwithstanding the provisions of 220-340-470, effective December 5, 2025, until further notice:

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

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	0
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	0
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20

Geographical Management Unit (WAC 220-320-110)	Pot limit
Subregion 3-1	25
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

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

REPEALER

The following sections of Washington Administrative Code are repealed, effective December 5, 2025:

WAC 220-340-45500E	Commercial crab fishery—Seasons and areas—Puget Sound. (25-298)
WAC 220-340-47000D	Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (25-298)

WSR 26-01-019
EMERGENCY RULES
DEPARTMENT OF ECOLOGY

[Order 25-03—Filed December 5, 2025, 7:42 a.m., effective December 5, 2025, 7:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Issuance of a formal emergency drought declaration, directed by the governor and signed by the department of ecology (ecology) director.

Purpose: Ecology is adopting a new emergency rule, chapter 173-167 WAC, Emergency drought funding. This emergency rule describes the applicant and project eligibility criteria for grant funds to alleviate hardship resulting from the currently declared drought in the Yakima Basin watersheds of Upper Yakima, Lower Yakima, and Naches, which include portions of Yakima, Kittitas, and Benton counties, as well as all of Whatcom and Skagit counties, and portions of Snohomish, King, Pierce, Lewis, Thurston, Okanogan, Chelan, Clallam, Jefferson, and Ferry counties.

This emergency drought funding rule is being adopted again to keep the drought response grant continually open, which will allow eligible public entities to continue to apply for grant funds to alleviate hardship resulting from direct drought impact. If needed, ecology may adopt subsequent emergency rules.

Under the authority of RCW 70A.02.120(2), the director of ecology determined the initial emergency rule filing was exempt from the requirements of RCW 70A.02.060, including the requirement to complete an environmental justice assessment. This additional rule filing has been given the same determination from the director as it is part of the same emergency. The director determined that any delay in adopting this emergency rule would be likely to cause serious harm to the public interest.

Please visit our website for information and supporting documents at https://www.ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-167-2025.

Citation of Rules Affected by this Order: New chapter 173-167 WAC (2025).

Statutory Authority for Adoption: Chapter 43.83B RCW, Drought conditions.

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

Reasons for this Finding: An emergency rule is necessary to protect public health and safety and promote timelines that are in the interest of the public. With the rule in place, ecology may distribute funds to alleviate hardship caused by drought. To address these impacts, drought funding needs to be administered in a timely manner.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 13, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, Amended 0, Repealed 0.

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

Date Adopted: December 5, 2025.

Casey D. Sixkiller
Director

RDS-4763.5

Chapter 173-167 WAC
EMERGENCY DROUGHT FUNDING

NEW SECTION

WAC 173-167-180 Purpose and applicability. (1) Ecology is authorized to provide funding to public entities to implement projects and measures that alleviate undue hardship caused by drought conditions negatively affecting:

(a) The delivery of safe and reliable drinking water supplies;

(b) The survival of fish and wildlife; and

(c) The viability of agricultural activities and livestock operations.

(2) This chapter establishes criteria for grant eligibility, selection, issuance, and performance, and applies to projects under which ecology may disburse funds for addressing undue hardship caused by drought conditions.

(3) Provisions in this chapter supplement provisions of chapter 173-166 WAC. In the event of any conflict between this rule and chapter 173-166 WAC, the provisions of this chapter control.

NEW SECTION

WAC 173-167-190 Definitions. Definitions only apply to this chapter:

(1) "Agreement effective date" means the date on which the grant agreement becomes effective, as specified in the agreement.

(2) "Agreement signature date" means the date the grant agreement is signed by ecology.

(3) "Applicant" means an entity that applies for a grant.

(4) "Budget" means, for the purpose of grant agreements, a breakdown of eligible costs by task.

(5) "Ecology" means the Washington state department of ecology.

(6) "Grant agreement" or "agreement" means the formal, written, contractual document that details the terms and conditions, scope of work, budget, and schedule of the grant, signed by authorized signatories of the recipient and ecology.

(7) "Recipient" means an entity that has a grant agreement.

(8) "Scope of work" means the tasks, deliverables, and timelines of the grant agreement.

NEW SECTION

WAC 173-167-200 Funding limitations. (1) Ecology will administer grants in accordance with the *Administrative Requirements for Recipients of Ecology Grants and Loans*. (Publication No. 23-01-002.) Revised July 2023.

(2) Applicants must provide cost-share totaling 50 percent of the total eligible cost of the project.

(3) If an applicant is seeking funding for a public water system to address the immediate undue hardship arising from drought conditions, applicants that serve an economically disadvantaged community qualify for an exemption from the cost-share requirement. For the purposes of this rule, an economically disadvantaged community is defined by meeting one of the following:

(a) Communities ranked as a cumulative 9 or 10 on the Washington State Environmental Health Disparities Map; or

(b) Communities ranked as a 9 or 10 for only the Socioeconomic Determinants indicator on the Washington State Environmental Health Disparities Map; or

(c) Communities ranked as a 9 or 10 for only the Race, Ethnicity, and Language indicator on the Washington State Environmental Health Disparities Map; or

(d) Applicant is, or the public water system serves, a federally recognized tribe.

(4) The department will provide no more than 25 percent of the total funds available to any single entity or any single project with funding authorized under this chapter.

NEW SECTION

WAC 173-167-210 Application. (1) All applicants must use the electronic system identified by ecology to apply for grants. Applicants without access to the electronic system must use a process approved by ecology.

(2) The applicant must complete the application process and provide all required information, including:

(a) Applicant information;

(b) Project location and description;

(c) Requested funding amount and budget for the project;

(d) Description of project benefit(s), including:

(i) Problem(s) or need(s) the project would address;

(ii) Timing and the extent to which the project is expected to address the identified needs;

(iii) Quantity of water, acreage, and number of residences affected by the proposed project, as applicable;

(iv) Method(s) used to determine project benefits; and

(v) Metrics for project success, including quantitative metrics if available.

(e) Scope of work for the project;

(f) Any other information required by ecology to evaluate the project.

(3) Ecology may request additional information to assist in the application evaluation process and may remove an application from further consideration if the application is incomplete.

NEW SECTION

WAC 173-167-220 Eligible public entities for grant funding under this chapter. (1)(a) County, or city governmental agencies.

(b) Federally recognized tribes.

(c) Public utility districts, formed under chapter 54.04 RCW.

(d) Water and sewer districts, formed under chapter 57.02 RCW.

(e) Conservation districts, formed under chapter 89.08 RCW.

(f) Irrigation districts, formed under chapter 87.03 RCW.

(g) Port districts formed under chapter 53.04 RCW.

(h) Watershed management partnerships formed under RCW 39.34.200.

(2) State agencies are not eligible for grants under RCW 43.83B.415 (1)(c); state agencies may receive funding through interagency agreements to address drought hardship under RCW 43.83B.410(6).

NEW SECTION

WAC 173-167-230 Eligibility for funding. (1) An activity or project for response to emergency drought conditions must be partially or completely within the area of a drought declaration order by ecology, which can be found at (a map of the drought declaration area can be viewed at https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions/Drought-response).

(2) One or more of the following must be partially or completely within the area of a drought declaration order by ecology:

(a) The public water system's service area;

(b) The geographic area where irrigated agriculture or livestock are located;

(c) The source of water, or the water body, that supplies water to the entity applying for funding.

(3) The reduction in water supply caused by drought must cause, or is expected to cause, undue hardship, as described under WAC 173-167-260.

(4) Funding may be granted if the following conditions are met:

(a) The proposed project or measure must be for an established beneficial use of water and not used for irrigation of new acreage or another new or expanded use.

(b) Water derived from the project or measure must be put to beneficial use and address the current water shortage during the drought declaration.

(c) The proposed project or measure cannot impair existing water rights, including instream and out-of-stream rights.

(d) The applicant must obtain all required permits and approvals for the proposed project prior to initiating work.

(e) If an applicant is seeking funding for a public water system, the applicant must obtain Washington department of health approval of the proposed project.

(f) If an applicant is on behalf of a public water system, the system must describe water conservation actions or demonstrate that the applicant has already made reasonable efforts to address their water supply shortage through conservation measures.

NEW SECTION

WAC 173-167-240 Waiver. To expedite drought relief projects and measures, ecology can approve funding or compensation under this chapter without complying with:

(1) Notice of publication;

(2) The State Environmental Policy Act; and

(3) Competitive bidding requirements.

NEW SECTION

WAC 173-167-250 Eligible projects or measures. (1) Eligible projects or measures include, but are not limited to:

(a) Leasing or acquiring water rights providing an uninterruptible water supply for instream or out-of-stream use;

(b) Establishing emergency interties or other alternate source(s) of supply;

(c) Obtaining an emergency supply of potable water from trucks or bottles;

(d) Addressing fish hatchery or migration barriers caused by drought conditions;

(e) The cost of providing personnel necessary to implement the activities identified in this section.

(2)(a) Ecology retains the discretion to fund an eligible project for less than the amount requested or deny a grant request for an eligible project. Situations where ecology may reduce or deny a grant request for an eligible project include, but are not limited to, incomplete application submittal, unavailability of sufficient funding for a project, or evidence that information submitted in an application is false or inaccurate.

(b) The department is not obligated to fund projects that do not provide sufficient benefit to alleviating hardship caused by drought or water unavailability. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs.

NEW SECTION

WAC 173-167-260 Undue hardship. Undue hardship will be evaluated by considering:

(1) The short-term and long-term economic, public health, or environmental effects the water shortage would have in the absence of drought relief on agricultural crops, livestock operations, public water system safety and reliability, or instream fish and wildlife resources.

(2) The degree to which current drought conditions are directly responsible for the effects described as undue hardship.

(3) The amount of water shortage experienced or forecast for each applicant.

NEW SECTION

WAC 173-167-270 Grant agreement. (1) Ecology will work with the recipient to prepare the grant agreement.

(2) A grant agreement issued and managed in ecology's electronic system must include, at a minimum:

(a) Project description;

(b) Expected outcomes;

(c) Project budget and funding distribution;

(d) Agreement effective date and expiration date;

(e) Description of tasks, deliverables, and timelines;

(f) Contact information for ecology and the recipient;

(g) Signatures of authorized signatories;

(h) General terms and conditions that specify requirements related, but not limited to:

(i) Amendments and modifications;

(ii) Assignment limits on transfer of rights or claims;

(iii) Inadvertent discovery plan for human remains and/or cultural resources;

(iv) Compliance with all laws;

(v) Conflict of interest;

(vi) Disputes;

(vii) Environmental data standards;

(viii) Governing law;

(ix) Indemnification;

(x) Independent status of the parties to the agreement;

(xi) Order of precedence for laws, rules, and the agreement;

(xii) Property rights, copyrights, and patents;

(xiii) Records, audits, and inspections;

(xiv) Recovery of funds;

(xv) Severability;

(xvi) Suspension;

(xvii) Sustainable practices;

(xviii) Termination;

(xix) Third-party beneficiary;

(xx) Waiver of agreement provisions.

(i) Special terms and conditions, if any;

(j) Agreement-specific terms and conditions, if any;

(k) Other items, if any, necessary to meet the goals of the grant program.

(3) All grant agreements under this chapter will include the latest version, as of the original agreement date, of ecology's grant general terms and conditions.

(4) Ecology may choose to extend a grant agreement at its sole discretion.

NEW SECTION

WAC 173-167-280 Performance standards—General provisions. (1) Nothing in this chapter influences, affects, or modifies existing ecology programs, rules, or enforcement of applicable laws and rules relating to activities funded by a grant.

(2) Ecology, or an auditor authorized by the state of Washington, may audit or inspect a recipient's grant agreements, records, and activities.

(3) New ecology grant agreements signed after the effective date of this chapter must be managed using ecology's designated electronic system. A recipient who cannot access the electronic system to meet a deadline or agreement requirements must use a process approved by ecology.

(4) Ecology may perform site visits to monitor the project, evaluate performance, and document compliance or any other conditions of the agreement.

(5) Recipients must:

(a) Follow all applicable accounting and auditing laws and rules related to grants;

(b) Use funds according to the agreement;

(c) Use funds according to the recipient's own policies and procedures, and according to all applicable laws and rules;

(d) Comply with all applicable laws, rules, orders, and permits when carrying out activities authorized by the agreement;

(e) Obtain prior approval for equipment purchases over the amount specified in the agreement.

(6) As specified in the grant agreement, the recipient must submit the following to ecology:

(a) Progress reports;

(b) Payment requests;

(c) Equipment and materials purchase reports, including receipts;

(d) Documentation of project implementation;

(e) A final closeout report;

(f) Any other required information.

(7) Ecology will:

(a) Follow all applicable accounting and auditing laws and rules related to grants;

(b) Monitor projects and review progress reports to assure compliance with applicable laws, rules, orders, permits, and terms and conditions of the agreement;

(c) Confirm receipt of required documentation and satisfactory completion of the project before approving final payment.

NEW SECTION

WAC 173-167-290 Closing out the agreement. (1) The recipient must follow the closeout requirements in the agreement.

(2) Ecology is not obligated to reimburse the recipient the final payment if the recipient does not meet all closeout requirements within the time frames in the agreement.

(3) Ecology will close out the grant agreement when it determines the recipient has met the requirements or when the agreement has been terminated (see WAC 173-167-300).

NEW SECTION

WAC 173-167-300 Termination of agreement. (1) Failure by the recipient to comply with a grant agreement may result in termination of the agreement.

(2) Ecology will attempt to contact the recipient regarding any issues with agreement compliance prior to terminating an agreement.

(3) Ecology's ability to make payments is contingent on availability of funding.

(4) Ecology will document the termination of an agreement.

WSR 26-01-021
EMERGENCY RULES
SECRETARY OF STATE
[Filed December 5, 2025, 9:51 a.m., effective December 5, 2025, 9:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule making is to reiterate existing statute in RCW 29A.08.710 that detail which data in a voter registration record are public information and clarification that violation of this is subject to RCW 29A.84.150.

Citation of Rules Affected by this Order: New WAC 434-324-145.

Statutory Authority for Adoption: RCW 29A.04.611 and 29A.08.720.

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: Emergency rule making is necessary to immediately clarify statutory requirements and penalties to preserve voter privacy when responding to public records requests for information from the statewide voter registration database while the office of the secretary of state is proposing statutory clarification.

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

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

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

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

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

Date Adopted: December 5, 2025.

Amanda Doyle
Chief of Staff

RDS-6878.2

NEW SECTION

WAC 434-324-145 Voter registration database record information furnished. The Washington driver's license number, Washington identification card number, Social Security number, and full date of birth shown on the affidavit of voter registration or included in the voter registration record are confidential and shall not be knowingly disclosed to any person except to state or local election officials and election officers unless authorized by the office of the secretary of state. A violation of this section shall constitute the improper use

of information in the statewide voter registration database under RCW 29A.84.150.

WSR 26-01-033
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-302—Filed December 8, 2025, 1:21 p.m., effective December 8, 2025, 1:21 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to amend commercial crab fishing in Puget Sound:

WAC 220-340-45500G closes Region 2W and Subregion 3-1 to commercial crab harvest on December 9, 2025.

WAC 220-340-47000F sets reduced pot limits by area for Puget Sound commercial crab harvest effective the dates listed in WAC 220-340-45500G.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500F and 220-340-47000E; and amending WAC 220-340-455 and 220-340-470.

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

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

Reasons for this Finding: This emergency rule is necessary to close Region 2W and Subregion 3-1 to commercial crab harvest effective one hour after official sunset on December 9, 2025. There is sufficient allocation remaining to allow continued harvest in the Puget Sound commercial crab fishery in Regions 3-2, 3-3, and 3-4 until further notice. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, 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: December 8, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500G Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455; effective immediately, until further notice:

Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in this section. Harvest for these areas is permitted starting one hour before official sunrise until further notice, unless otherwise indicated in this section. Any closures take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Closed.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Closed.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through December 9, 2025.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Immediately, through December 9, 2025.
Subregion 3-1	Immediately, through December 9, 2025.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Immediately, until further notice.

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

NEW SECTION

WAC 220-340-47000F Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas Notwithstanding the provisions of 220-340-470, effective immediately, until further notice:

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

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	0
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	0
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	20
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	25

Geographical Management Unit (WAC 220-320-110)	Pot limit
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

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

REPEALER

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

WAC 220-340-45500F	Commercial crab fishery—Seasons and areas—Puget Sound. (25-300)
WAC 220-340-47000E	Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (25-300)

WSR 26-01-037
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Filed December 9, 2025, 11:07 a.m., effective December 9, 2025, 11:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (agency) is amending these rules to expand screening and preventative services for certain sexually transmitted infections, to include HIV testing, viral hepatitis B and C, and hepatitis A/B combination vaccines, when clinically appropriate or according to nationally recognized guidelines. The agency is also including coverage for family planning-related services and supplies, defined as those services provided as part of, or as follow-up to, a family planning visit.

Citation of Rules Affected by this Order: Amending WAC 182-532-530, 182-532-550, and 182-532-560.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

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

Reasons for this Finding: These rules are necessary to expand family-planning only (FPO) coverage to support preventative screenings and family planning services while the permanent rule-making process is completed. The FPO program operates under a federal waiver allowing changes in response to state needs.

These changes were preliminarily approved by the Centers for Medicare and Medicaid Services (CMS) as eligible additions to the state program. The agency began the permanent rule-making process under WSR 23-24-065 and filed subsequent emergency rules while waiting for formal CMS approval. CMS issued formal approval on April 30, 2025, of the FPO waiver application, which included expanded coverage. The agency then sent out draft copies of the rules for stakeholder review and comment and subsequently identified some additional sections in chapter 182-532 WAC to be amended.

The agency filed the CR-102 under WSR 25-20-110 on October 1, 2025, and held a public hearing on November 4, 2025. The agency filed the CR-103P under WSR 25-23-034 on November 13, 2025. The permanent rules take effect on January 1, 2026. This emergency rule filing is necessary to renew the previous emergency rules filed under WSR 25-17-057 to cover the gap of time until the permanent rules take effect.

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

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

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

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

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

Date Adopted: December 9, 2025.

Wendy Barcus
Rules Coordinator

OTS-5096.1

AMENDATORY SECTION (Amending WSR 22-02-025, filed 12/28/21, effective 2/1/22)

WAC 182-532-530 Family planning only programs—Covered services. The medicaid agency covers all of the following services:

(1) One comprehensive preventive family planning visit once every twelve months, based on nationally recognized clinical guidelines. This visit must have a primary focus and diagnosis of family planning and include counseling, education, risk reduction, and initiation or management of contraceptive methods;

(2) Assessment and management of family planning or contraceptive problems, when medically necessary;

(3) Family planning-related services and supplies defined as those services provided as part of, or as follow-up to a family planning visit;

(4) Contraception, including:

(a) Food and Drug Administration (FDA)-approved contraceptive methods, as described under WAC 182-530-2000;

(b) Education and supplies for Federal Drug Administration (FDA)-approved contraceptive, natural family planning, and abstinence; and

(c) Sterilization procedures, as described under WAC 182-531-1550.

((~~(4)~~)) (5) The following services, when clinically appropriate((~~, during a visit focused on family planning~~)) or according to nationally recognized guidelines:

(a) Pregnancy testing;

(b) Cervical cancer screening((~~, according to nationally recognized clinical guidelines~~));

(c) Gonorrhea and chlamydia screening and treatment ((~~for clients age thirteen through twenty-five, according to nationally recognized clinical guidelines~~));

(d) Syphilis screening and treatment ((~~for clients who have an increased risk for syphilis, according to nationally recognized guidelines; and~~));

(e) Sexually transmitted infection (STI) screening, testing, and treatment, when medically indicated by symptoms or report of exposure, and medically necessary for the client's safe and effective use of their chosen contraceptive method;

(f) HIV testing, including rapid tests; and

(g) Viral hepatitis B and C testing.

(6) Hepatitis B and hepatitis A/B combination vaccines.

((~~(5)~~)) (7) Human papillomavirus (HPV) vaccines.

AMENDATORY SECTION (Amending WSR 19-18-024, filed 8/28/19, effective 10/1/19)

WAC 182-532-550 Family planning only programs—Payment limitations. (1) The medicaid agency limits payment under the family planning only programs to services that:

(a) Have a primary focus and diagnosis of family planning as determined by a qualified licensed medical practitioner; ((~~and~~))

(b) Are medically necessary for the client to safely and effectively use, or continue to use, the client's chosen contraceptive method; and

(c) Include family planning-related services and supplies listed in WAC 182-532-530.

(2) The agency pays:

(a) Providers for covered family planning services using the agency's published fee schedules;

(b) For family planning pharmacy services, family planning laboratory services, and sterilization services using the agency's published fee schedules; and

(c) A dispensing fee only for contraceptive drugs purchased through the 340B program of the Public Health Service Act. (See chapter 182-530 WAC)

(3) The agency does not pay for inpatient services under the family planning only programs, except for complications arising from covered family planning services.

(4) The agency requires providers to:

(a) Meet the timely billing requirements of WAC 182-502-0150; and

(b) Seek timely reimbursement from a third party when a client has available third-party resources, as described under WAC 182-501-0200. Exceptions to this requirement are described under WAC 182-501-0200 (2) and (3) and 182-532-570.

(5) Services provided to family planning clients by federally qualified health centers (FQHCs), rural health centers (RHCs), and Indian health care providers (IHCP) do not qualify for encounter or enhanced rates.

AMENDATORY SECTION (Amending WSR 19-18-024, filed 8/28/19, effective 10/1/19)

WAC 182-532-560 Family planning only programs—Documentation requirements. In addition to the requirements in WAC 182-502-0020, providers must document the following in the client's medical record:

(1) Primary focus and diagnosis of the visit is family planning or family planning related;

(2) Contraceptive methods discussed;

(3) Plan for use of a contraceptive method, or the reason and plan for no contraceptive method;

(4) Education, counseling, and risk reduction with sufficient detail that allows for follow-up;

(5) Referrals to, or from, other providers; and

(6) If applicable, a copy of the completed consent form for sterilization. (See WAC 182-531-1550)

WSR 26-01-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-303—Filed December 11, 2025, 1:42 p.m., effective December 18, 2025]

Effective Date of Rule: December 18, 2025.

Purpose: The purpose of this emergency rule is to open razor clam harvest in Areas 1, 3, 4, and 5.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000P; and amending WAC 220-340-160.

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

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

Reasons for this Finding: Survey results show that adequate clams are available in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 11, 2025.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

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

(1) Effective December 18 through December 23, 2025, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	December 18 through December 23	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	December 18 through December 23	From 12:01 p.m. to 11:59 p.m.
Area 4	December 18, 21, and 22	From 12:01 p.m. to 11:59 p.m.
Area 5	December 19, 20, and 23	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective December 9, 2025:

WAC 220-330-160000P Razor clams—Areas and seasons.

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-330-160000P is probably intended to be WAC 220-330-16000P.

WSR 26-01-067
EMERGENCY RULES
BIG BEND
COMMUNITY COLLEGE

[Filed December 12, 2025, 9:24 a.m., effective December 12, 2025, 9:24 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To bring Big Bend Community College's (college) student conduct code (code) into compliance with United States Department of Education regulations, as altered by a federal court decision in *Tennessee v. Cardona*, No. 2:24-00072 (Jan. 9, 2025), vacating the 2024 Title IX final rule. In light of the court's decision, education institutions are responsible for complying with the 2020 Title IX final rule.

Citation of Rules Affected by this Order: Amending chapter 132R-04 WAC.

Statutory Authority for Adoption: RCW 28B.50.140(13).

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

Reasons for this Finding: The college has revised chapter 132R-04 WAC, Student code of conduct, in order to continue to ensure compliance with the Title IX regulatory requirements. The college previously amended this code in consideration of the federal regulations made effective in August 2024. In *Tennessee v. Cardona*, No. 2:24-00072 (Jan. 9, 2025); however, the court vacated the 2024 Title IX federal regulations. The United States Department of Education subsequently also indicated its intent to enforce the 2020 Title IX regulations. Consequently, the college seeks to amend its student code of conduct to ensure compliance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 21, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 11, 2025.

Chandra Rodriguez
Executive Assistant to the President

RDS-6524.1

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-015 Definitions. For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code. The vice president of learning and student success will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator designated by the president to be responsible for reviewing or referring appeals of student disciplinary actions as specified in this code. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary and to reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action may be reviewed through brief adjudicative proceedings.

(6) ((~~"Pregnancy or related conditions" means:~~

~~(a) Pregnancy, childbirth, termination of pregnancy, or lactation;~~

~~(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or~~

~~(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.~~

~~(7) "Program" or "programs and activities" means all operations of the college.~~

~~(8) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.~~

~~(9) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.~~

~~(10)~~)) "Respondent" is the student who is alleged to have violated the student conduct code.

((~~(11)~~)) (7) "Service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by email, once one has been generated, and by certified or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed, if possible, and deposited into the mail, whichever is first.

((~~(12)~~)) (8) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review by a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by email and first class mail to the recipient's college-assigned email and office address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified official or presiding officer.

((~~(13)~~)) (9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

((~~(14)~~)) (10) "Student" is defined as all persons taking courses at or through the college, including those concurrently attending secondary or postsecondary institutions and college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses (excluding those trainings occurring through the Center for Business and Industry Service and the Japanese Agriculture Training Program), irrespective of modality. Persons who withdraw after allegedly violating the student code of conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students" for the purposes of this chapter. "Continuing relationship" is established when a student is registered for an upcoming term or has indicated an intent to do so via a transaction, such as submitting a financial aid application for an upcoming term.

((~~(15) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.~~

~~(16) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:~~

~~(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or~~

~~(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of~~

~~certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extracurricular or any other activity regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.~~

~~(17)~~)) (11) "Student group" for purposes of this code, is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

((~~(18) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations, and informal resolution processes, and coordinating supportive measures, in accordance with college policy.~~

~~(19)~~)) (12) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

((~~(20) "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:~~

~~(a) A student or employee; or~~

~~(b) A person other than a person or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.~~

~~(21)~~)) (13) "Complainant" means any person who files a complaint alleging that a student or student organization violated the standards of conduct for students. Complainant also refers to the college when the college files the complaint.

(14) "Sexual misconduct" has the meaning ascribed to this term in WAC 132R-04-057.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-017 Statement of jurisdiction. (1) The student conduct code shall apply to conduct by students and student groups that occurs:

(a) On college premises; or

(b) At or in connection with ((~~college programs or~~)) college-sponsored activities; or

(c) To off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives ((~~or the ability of a student or staff to participate in the college's programs and activities~~)).

(2) Jurisdiction extends to, but is not limited to, locations in which students or student groups are engaged in official college programs or activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, student government, student clubs or organizations, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities and college-sanctioned housing.

(3) Students are responsible for their conduct from notification of admission to the college through the actual receipt of a certifi-

cate or degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(5) The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off campus.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-053 Authority. The Big Bend Community College (BBCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the president of the college the authority to administer student disciplinary action. Administration of the student disciplinary procedures is the responsibility of the vice president of learning and student success. The vice president of learning and student success will serve as the student conduct officer, or appoint a designee((~~, except in the cases involving allegations of sex discrimination including sex-based harassment when the Title IX coordinator or designee will serve as the student conduct officer~~)). Unless otherwise specified, the student conduct officer or designee shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-057 Prohibited student conduct. The college may impose sanctions against a student or student group who commits, attempts to commit, aids, abets, incites, encourages, or assists another person to commit an act(s) of misconduct, which includes, but is not limited to, any of the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, ((~~or~~)) fabrication, or deliberate damage.

(a) Cheating includes, but is not limited to, any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes, but is not limited to, taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment, and also includes providing false or deceptive information in an instructional course concerning the completion of an assignment.

(d) Deliberate damage includes taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(e) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom.

((~~(e)~~)) (f) This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(2) **Other dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students;

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee; or

(d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(3) **Obstructive or disruptive conduct.** Conduct not otherwise protected by law that interferes with, impedes, or otherwise unreasonably hinders:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(a) Assault is intentionally touching or striking another person in a harmful or offensive way.

(b) A threat is any conduct and/or speech that, when viewed objectively, threatens bodily harm to another person or that endangers the health or safety of another person. If the threat primarily involves speech, the speaker must also have consciously disregarded a substantial, unjustifiable risk that the communications could be viewed as threatening violence.

(c) Harassing conduct is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities. Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(d) For purposes of this code, "bullying" is repeated or aggressive unwanted behavior, not otherwise protected by law, ((~~that humili-~~

~~ates, harms, or intimidates the victim~~)) when a reasonable person would feel humiliated, harmed, or intimidated.

(e) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and duration of the comments or actions.

(5) **Cyber misconduct.** Cyber misconduct including, but not limited to: Cyberstalking, cyberbullying, or online harassment.

(a) Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person.

(b) Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third-parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person.

Property for the purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(7) **Failure to comply with directive.** Failure to comply with the directive(s) of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice president of learning and student success. This policy does not apply to the possession of a personal protection spray device, as authorized by RCW 9.91.160. This policy is subject to the following exceptions:

(a) Commissioned law enforcement personnel in the state of Washington, legally authorized military personnel while in performance of their duties, and other persons or entities authorized by contract to carry firearms in the course of their employment;

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or designee may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(9) **Hazing.**

Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college sponsored student organization, athletic team, or living group, or any

pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing. Examples of hazing include, but are not limited to:

(a) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(b) Humiliation by ritual act;

(c) Striking another person with an object or body part;

(d) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(e) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(10) **Alcohol, cannabis, drug, and tobacco violations.**

(a) Alcohol. The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) Cannabis. The use, possession, delivery, or sale of cannabis or the psychoactive compounds found in cannabis intended for human consumption, regardless of form, or being observably under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(c) Drugs. The use, possession, production, delivery, sale, or being observably under the influence of any legend drug (including anabolic steroids, androgens, or human grown hormones), narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, except in accordance with a lawful prescription for that student by a licensed health care professional.

(d) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college, or in any location where such use is prohibited, or in any location other than the parking lots, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas.

"Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(11) **Disorderly conduct.** Conduct which is disorderly, lewd, indecent, or obscene, that is not otherwise protected under the law.

(12) **Discriminatory conduct.** Conduct which harms or adversely affects any member of the college community because of race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 132R-04-103.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct, including unwelcomed sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

(i) Deny or limit the ability of a student to participate in or benefit from the college's educational programs or activities;

(ii) Alter the terms or conditions of employment for a college employee(s); and/or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of sexual harassment and means threatening or emotionally distressing conduct based on sex. This includes, but is not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any object or body part, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of 18.

(iv) Statutory rape. ((~~Consensual~~)) Nonforcible intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, ((~~or~~)) stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(vi) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantial emotional distress.

(viii) Consent. Clear, knowing, and voluntary permission by word or action to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be actual words or conduct indicating freely given agreement to the act at the time of the act. Consent cannot be inferred from silence, passivity, or lack of active resistance. Consent can be withdrawn by either party at any point. Consent to engage in one activity, or past agreement to engage in a particular activity, cannot be presumed to constitute consent to engage in a different activity or to engage in the same activity again. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person cannot consent if they are unable to understand what is happening or are disoriented, or if they are asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapable of consent has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) **Discriminatory harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive, so as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program and/or social programs and/or student housing; alter the terms of an employee's employment; or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity or expression; veteran's or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications not otherwise protected by law.

(15) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation of federal, state, or local law, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

(17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(18) **Safety violations.** Safety violation includes any nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Abuse of process.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(20) **Unsafe vehicle operation.** Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college housing, traffic and parking rules.

(22) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(23) **Aiding or abetting.** Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

((~~(24) **Sex discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimis harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis (insignificant) harm on the basis of sex.~~

~~(a) **Sex-based harassment.** "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:~~

~~(i) **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.~~

~~(ii) **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:~~

~~(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;~~

~~(B) The type, frequency, and duration of the conduct;~~

~~(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;~~

~~(D) The location of the conduct and the context in which the conduct occurred; and~~

~~(E) Other sex-based harassment in the college's education program or activity.~~

~~(iii) **Sexual violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.~~

~~(A) **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.~~

~~(B) **Nonconsensual sexual contact (fondling)** is any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts,~~

~~groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

~~(C) **Incest** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.~~

~~(D) **Statutory rape (rape of a child)** is nonforcible sexual intercourse with a person who is under the statutory age of consent.~~

~~(E) **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.~~

~~(F) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(I) The length of the relationship;~~

~~(II) The type of relationship; and~~

~~(III) The frequency of interaction between the persons involved in the relationship.~~

~~(G) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.~~

~~(b) **Consent.** For purposes of this code "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.~~

~~(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.~~

~~(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.~~

~~(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.~~

~~(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.~~

~~(c) **Title IX retaliation** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, in-~~

~~cluding during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.~~))

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-064 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with written notice or oral notice of the summary suspension at the time of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two calendar days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension Proceedings" and shall include:

(a) The reasons for imposing the summary suspension, including reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5)(a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

(g) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices whom may be bound or protected by it.

(6) In cases involving allegations of sexual ((~~discrimination~~)) misconduct, the complainant will be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

AMENDATORY SECTION (Amending WSR 17-22-054, filed 10/25/17, effective 11/25/17)

WAC 132R-04-103 Supplemental sexual misconduct procedures. (1) Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial discipline action and to appeal the student conduct officer's disciplinary order. Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct not otherwise subject to Title IX. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(2) **Supplemental complaint process.** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer or designee shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time.

In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety, and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(d) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions (if any) that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-112 Initiation of disciplinary action. (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) **((~~Sex discrimination, including sex-based harassment~~)) Sexual misconduct**. The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of ((~~sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies~~)) sexual misconduct.

(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(3) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(4) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve ((~~sex-based harassment~~)) sexual misconduct complaints without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(5) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

(6) ((~~Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.~~

~~(7)~~)) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.

((~~(8)~~)) (7) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

((~~(9)~~)) (8) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

((~~(10)~~)) (9) Within 10 calendar days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended at the sole discretion of the student conduct officer, if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

((~~(11)~~)) (10) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 132R-04-063; or

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

((~~(12)~~)) (11) In cases involving allegations of ((~~sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recom-~~

~~mendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.~~

~~(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.~~

~~(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.~~

~~(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.~~

~~(d) The student conduct officer shall promptly notify the other party of the request.~~

~~(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:~~

~~(i) The college is unable to identify respondent after taking reasonable steps to do so;~~

~~(ii) Respondent is not participating in the college's educational programs or activities;~~

~~(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;~~

~~(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or~~

~~(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.~~

~~(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.~~

~~(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.~~

~~(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.~~

~~(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities~~)) sexual misconduct that is not subject to Title IX, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-113 Appeal from disciplinary action. (1) ((~~Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132R-04-057,~~)) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's order shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent((~~, complainant if any,~~)) and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student disciplinary committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) In the event of a conflict between this student conduct code and the Administrative Procedure Act, chapter 34.05 RCW, this student conduct code will govern.

(7) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(8) Imposition of discipline for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(9) The student disciplinary committee shall hear the following cases as fully adjudicated proceedings:

(a) Appeals from suspensions in excess of ten instructional days;

(b) Appeals from dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president((~~; and~~

~~(d) Cases in which students request to have their discipline case heard by the committee~~)).

(10) Student conduct appeals involving the following disciplinary actions shall be reviewed as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(11) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

(12) In cases involving allegations of sexual misconduct that are not subject to Title IX, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(13) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(14) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-116 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by the student conduct officer. The presiding officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party (a) an opportunity to be informed of the college's view of the matter and (b) an opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon all the parties within 10 calendar days of consideration of the initial hearing. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within 21 calendar days of service of the initial decision, the initial decision shall be deemed the final order.

(4) In cases involving allegations of sexual misconduct that are not subject to Title IX, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights.

(5) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of 10 instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-1170 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within 21 calendar days of service of the initial decision.

(2) The president or designee shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president or designee shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The order on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the reviewing officer does not make a disposition of the matter within 20 calendar days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

(6) In cases involving allegations of sexual misconduct that are not subject to Title IX, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-125 Student conduct committee—General. (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members recommended by the faculty association and appointed by the president;

(c) The conduct review officer or other member of the administration appointed by the president at the beginning of the academic year.

(2) The conduct review officer shall serve as the committee chair and may take action on preliminary hearing matters prior to the appointment of the committee. The committee chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student disciplinary committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.

(5) ((~~For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.~~

~~(6)~~)) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

((~~In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.~~))

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-131 Student disciplinary committee hearing—Presentation of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall ensure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request

for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the college's case.

(6) All testimony shall be given under oath or affirmation. Except as otherwise provided in this section, evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) ((~~In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.~~

~~(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.~~

~~(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.~~

~~(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:~~

~~(i) Spousal/domestic partner privilege;~~

~~(ii) Attorney-client communications and attorney work product privilege;~~

~~(iii) Clergy privileges;~~

~~(iv) Medical or mental health providers and counselor privileges;~~

~~(v) Sexual assault and domestic violence advocate privileges; and~~

~~(vi) Other legal privileges set forth in RCW 5.60.060 or federal law.~~

~~(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.~~

~~(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.~~

~~(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent~~

~~may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.~~)) The president of the college or designee, the chair of the student disciplinary committee, the administrators assigned to the student disciplinary committee, deans, and/or the student conduct officer have the authority to issue subpoenas.

(8) The accused student and the student conduct officer may arrange for witnesses to present pertinent information to the student disciplinary committee. Each party is responsible for informing their witnesses of the time and place of the hearing.

(9) The committee chair may accommodate concerns for the personal safety, well-being, or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by videoconferencing, telephone, audio tape, written statement, or other means. In making such accommodations, the rights of the other parties must not be prejudiced, and the parties must have the opportunity to participate effectively in, to hear, and, if technically economically feasible, to see the entire proceeding while it is taking place.

(10) The chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

(11) In cases involving allegations of sexual misconduct that are not subject to Title IX, no party shall directly question or cross examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf.

(12) At the conclusion of the hearing, the committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee may also permit each party to propose findings, conclusions, and/or an order for its consideration.

AMENDATORY SECTION (Amending WSR 17-22-054, filed 10/25/17, effective 11/25/17)

WAC 132R-04-140 Student disciplinary committee—Initial decision. (1) Within ((~~twenty~~)) 20 calendar days following the conclusion of the hearing or the committee's receipt of closing arguments (whichever is later), the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(2) The committee's initial decision shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may af-

firm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(3) The committee chair shall provide copies of the initial decision to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice president of learning and student success.

(4) In cases involving allegations of sexual misconduct that are not subject to Title IX, the committee chair, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of his or her appeal rights.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-150 Appeal from student conduct committee initial decision. (1) Any party((~~, including a complainant in sex-based harassment cases,~~)) who is aggrieved by the findings of conclusions issued by the student disciplinary committee may appeal the committee's decision to the president by filing a written appeal with the president's office within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

(2) The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.

(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of

the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.

(6) In cases involving allegations of ((~~sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator~~)) sexual misconduct that are not subject to Title IX, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

(7) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-300 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132R-04-010 through 132R-04-200, these supplemental procedures shall take precedence. The college may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-305 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" ((~~encompasses the following conduct~~)) means conduct on the basis of sex that satisfies one or more of the following:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct ((~~that~~)) determined by a reasonable person ((~~would find~~)) to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities((~~, or employment~~)).

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. ((~~Consensual~~)) Nonforcible sexual intercourse between someone who is ((~~eighteen~~)) 18 years of age or older and someone who is under the age of ((~~sixteen~~)) 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, ((~~or stalking~~)) coercive control, damage or destruction of personal property, stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW ((~~26.50.010~~)) 26.55.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-315 Initiation of discipline. (1) Upon receiving ((~~the~~)) a Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplina-

ry action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;

(b) Identify the alleged Title IX violation(s);

(c) Set forth the facts underlying the allegation(s);

(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

((~~(3)~~)) (f) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-320 Prehearing procedure. (1) ((~~Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.~~

~~(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:~~

~~(a) A copy of the student conduct code;~~

~~(b) The basis for jurisdiction;~~

~~(c) The alleged violation(s);~~

~~(d) A summary of facts underlying the allegations;~~

~~(e) The range of possible sanctions that may be imposed; and~~

~~(f) A statement that retaliation is prohibited.~~

~~(3) The chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.~~

~~(4) Upon request filed at least five calendar days before the hearing by any party or at the direction of the chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.~~

~~(5) The chair may provide to the committee members in advance of the hearing copies of:~~

~~(a) The student conduct officer's notification of imposition of discipline (or referral to the committee); and~~

~~(b) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.~~

~~(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.~~

~~(7) (Optional: The student conduct officer shall provide reasonable assistance to the respondent and complainant in procuring the presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer no less than three business days in advance of the hearing. The student conduct officer shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witnesses to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.)~~

~~(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.~~

~~(9) (Optional: In cases heard by the committee, each party may be accompanied at the hearing by an advisor of their choice, which may be an attorney retained at the party's expense.)~~

~~(10) (Optional: For any matters involving a disciplinary sanction of suspension of more than one quarter, dismissal, or sex-based harassment, the college shall provide an advisor to the respondent and any complainant, if they have not otherwise identified an advisor to assist them during the hearing.) The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.~~

~~(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.~~

~~(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:~~

~~(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.~~

~~(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.~~

~~(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.~~

~~(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.~~

~~(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.~~

~~(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:~~

~~(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:~~

~~(i) The respondent is presumed not responsible for the alleged sex-based harassment;~~

~~(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;~~

~~(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;~~

~~(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and~~

~~(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.~~

~~(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.~~

~~(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.~~

~~(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.~~

~~(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party~~

~~solely through the disciplinary process which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.~~

~~(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.~~

~~(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.~~)) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132R-04-130. In no event will the hearing date be set less than 10 days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-330 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) ((~~Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility~~)) Complainant and respondent may not ask questions directly of one another. Questions may be asked through a party's advisor or by the chair, after the chair determines the question is relevant and not privileged or otherwise impermissible. The chair has discretion to follow this procedure for other witnesses as well.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

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

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

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

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

(f) Other legal privileges identified in RCW 5.60.060.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-335 Initial order. (1) In addition to complying with WAC 132R-04-140, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the ((~~grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility~~)) procedural steps taken from receipt of the formal complaint through the determination, including ((~~notices~~)) any notifications to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination ((~~of responsibility~~));

(d) Reaches conclusions ((~~as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX~~)) by applying the conduct code to the facts;

(e) Contains a statement of, and rationale for, the ((~~committee's determination of responsibility for each allegation~~)) result as to each allegation, including a determination regarding responsibility;

(f) Describes any disciplinary sanctions or conditions imposed against the respondent, if ((~~any~~)) the committee determines the respondent violated the conduct code;

(g) ((~~Describes to what extent, if any, complainant is entitled to~~)) Determines whether remedies designed to restore or preserve complainant's equal access to the college's education programs or activities will be provided by the college; and

(h) Describes the process for appealing the initial order to the college president.

(2) The committee chair will serve the initial order on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-340 Appeals. (1) ((~~The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132R-04-150.~~

~~(2) The president or their delegate~~)) All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or in part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions in the initial order or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or notice of dismissal shall be deemed final.

(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.

(3) Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the president's office.

(4) The president or their delegate, based on their reviews of the parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and ((~~condition(s)~~)) conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanctions and/or condition(s).

((~~(3)~~)) (5) President's office shall serve the final decision on the parties simultaneously.

(6) All administrative decisions reached through this process may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

WSR 26-01-075
EMERGENCY RULES
BUILDING CODE COUNCIL
[Filed December 12, 2025, 3:25 p.m., effective December 12, 2025, 3:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amending chapter 51-52 WAC, the adoption of the 2021 International Mechanical Code with Washington state amendments, to clarify requirements for A2L refrigerants. The changes coordinate the adopted code with the most recent ASHRAE 15, ASHRAE 15.2, ASHRAE 34, and UL 60335-2-40 standards. The majority of the changes are in chapter 11, with updates to the referenced standards in chapter 15 and coordinating changes to the definitions and the location of exhaust outlets. This filing is to extend the emergency rule effect of WSR 25-05-051, 25-13-059, and 25-21-045. Permanent rule making is underway with CR-101, filing WSR 24-11-128.

Citation of Rules Affected by this Order: New WAC 51-52-0202A, 51-52-0501A, 51-52-1101A, 51-52-1103A, 51-52-1104A, 51-52-1105A, 51-52-1106A, 51-52-1107A, 51-52-1109A, 51-52-1110A, and 51-52-1500A.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Other Authority: Chapter 19.27 RCW.

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

Reasons for this Finding: The changes proposed help coordinate with the hydrofluorocarbon rules adopted by the department of ecology that went into effect January 1, 2024, and provides clearer guidance on the use of A2L refrigerants. These changes will help ensure a safe and consistent application of the latest safety standards for A2L and other refrigerants that are now the only option available for some HVAC equipment. The rules will eliminate the need for owners, developers, architects, contractors, and other engineers from pursuing the more costly route of code compliance through the use of alternate means and methods to use the necessary standards for the safe use of these refrigerants. On January 24, 2025, the state building code council (SBCC) voted that an emergency basis exists, pursuant to RCW 19.27.032 (1)(c)(iii), based on the cost and complexity of meeting both the mechanical code requirements and the refrigeration standards for the refrigerants with lower global warming potential required by chapter 173-443 WAC. October 17, 2025, SBCC responded to a petition for rule making, voting that an emergency basis still exists and adopted an update to this emergency rule.

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 11, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 11, 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 11, Amended 0, Repealed 0.

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

Date Adopted: December 12, 2025.

Todd Beyreuther
Chair

RDS-6814.1

NEW SECTION

WAC 51-52-0202A Section 202—General definitions.

EFFECTIVE DISPERSAL VOLUME. The volume of a space or connected spaces in which leaked refrigerant will disperse.

EFFECTIVE DISPERSAL VOLUME CHARGE (EDVC). The maximum refrigerant charge permitted for an effective dispersal volume.

MACHINERY ROOM. A designated space meeting the requirements of Sections 1105 and 1106 that contains one or more refrigerating systems or portions thereof.

NEW SECTION

WAC 51-52-0501A Section 501—General.

501.3.1 Location of exhaust outlets. The termination point of exhaust outlets and ducts discharging to the outdoors shall be located with the following minimum distances:

1. **For ducts conveying explosive or flammable vapors, fumes or dusts:** 30 feet (9144 mm) from the property line; 10 feet (3048 mm) from operable openings into the building; 6 feet (1829 mm) from exterior walls and roofs; 30 feet (9144 mm) from combustible walls and operable openings into the building which are in the direction of the exhaust discharge; 10 feet (3048 mm) above adjoining grade.

2. **For other product-conveying outlets:** 10 feet (3048 mm) from property lines; 3 feet (914 mm) from exterior walls and roofs; 10 feet (3048 mm) from operable openings into the building; 10 feet (3048 mm) above adjoining grade.

3. **For environmental air exhaust other than enclosed parking garage and transformer vault exhaust:** 3 feet (914 mm) from property lines, 3 feet (914 mm) from operable openings into buildings for all occupancies other than Group U, and 10 feet (3048 mm) from mechanical air intakes. Such exhaust shall not be considered hazardous or noxious. Separation is not required between intake air openings and living space *exhaust air* openings of an individual *dwelling unit* or *sleeping unit* where an approved factory-built intake/exhaust combination termination fitting is used to separate the air streams in accordance with the manufacturer's instructions.

EXCEPTIONS:
1. The separation between an air intake and exhaust outlet on a single listed package HVAC unit.
2. Exhaust from environmental air systems other than garages may be discharged into an open parking garage.
3. Except for Group I occupancies, where ventilation system design circumstances require building HVAC air to be relieved, such as during economizer operation, such air may be relieved into an open or enclosed parking garage within the same building.

4. Exhaust outlets serving structures in flood hazard areas shall be installed at or above the elevation required by Section 1612 of the *International Building Code* for utilities and attendant equipment.

5. For enclosed parking garage exhaust system outlets and transformer vault exhaust system outlets: 10 feet (3048 mm) from property lines which separate one lot from another; 10 feet (3048 mm) from operable openings into buildings; 3 feet (914 mm) horizontally from, 10 feet above, or 10 feet below adjoining finished walkways.

6. For transformer vault exhaust system outlets, subject to the requirements of NFPA 70 Section 450.45: 10 feet (3048 mm) from fire escapes, required means of egress at the exterior of the building, elements of exit discharge, exterior combustible materials, and openings that are not protected in accordance with Section 705.8 of the *International Building Code*; 10 feet (3048 mm) from property lines which separate one lot from another; 10 feet (3048 mm) from operable openings into buildings; 10 feet (3048 mm) above walkways.

7. For elevator machinery rooms in enclosed or open parking garages: Exhaust outlets may discharge air directly into the parking garage.

8. For specific systems see the following sections:

8.1. Clothes dryer exhaust, Section 504.4.

8.2. Kitchen hoods and other kitchen exhaust equipment, Sections 506.3.13, 506.4 and 506.5.

8.3. Dust stock and refuse conveying systems, Section 511.2.

8.4. Subslab soil exhaust systems, Section 512.4.

8.5. Smoke control systems, Section 513.10.3.

8.6. Refrigerant discharge for relief devices, Section 1105.7.

8.7. Machinery room discharge, Section 1105.6.1.

8.8. Natural ventilation and mechanical exhaust discharge for A2L and B2L refrigerant piping shafts, Sections 1105.7 and 1109.3.2.

8.9. Mechanical exhaust discharge for A2, B2, A3, and B3 refrigerant piping shafts, Sections 1105.7 and 1109.3.2.

NEW SECTION

WAC 51-52-1101A General.

1101.1.1 Refrigerants other than ammonia. Refrigeration systems using a refrigerant other than ammonia shall comply with this chapter, the *International Fire Code*, and either ASHRAE 15 or ASHRAE 15.2, as applicable. Refrigeration systems containing carbon dioxide as the refrigerant shall also comply with IIAR CO2 or be part of *listed* and *labeled equipment*.

NEW SECTION

WAC 51-52-1103A Section 1103—Refrigeration system classification.

1103.1 Refrigerant classification. Refrigerants shall be classified in accordance with ASHRAE 34 as listed in Table 1103.1. Refrigerants without a refrigerant number designation or without a safety group classification in the referenced edition of ASHRAE 34 shall be classified in accordance with the criteria in ASHRAE 34 as a single-compound

refrigerant blend of two or more compounds. Such safety classifications not assigned by ASHRAE 34 shall be submitted for approval to the *code official*. Compliance with the requirements of this code is contingent upon use of *approved* safety classifications where not assigned by the referenced edition of ASHRAE 34.

NEW SECTION

WAC 51-52-1104A Section 1104—Refrigeration system application requirements.

1104.2 Machinery room. Except as provided in Sections 1104.2.1 and 1104.2.2, all components containing the refrigerant shall be located either outdoors or in a *machinery room* where the quantity of refrigerant in an independent circuit of a *refrigeration* system exceeds both of the following:

1. The amounts shown in Table 1103.1; and
2. The effective *dispersal volume charge* as calculated in accordance with ASHRAE 15.

For refrigerant blends not listed in Table 1103.1, the same requirement shall apply for that component. These requirements shall also apply where the combined amount of the blend components exceeds a limit of 69,100 parts per million (ppm) by volume. *Machinery rooms* required by this section and containing only Group A1 or B1 refrigerants shall be constructed and maintained in accordance with Section 1105. *Machinery rooms* required by this section and containing any Group A2, B2, A3, or B3 flammable refrigerants shall be constructed and maintained in accordance with Sections 1105 and 1106. *Machinery rooms* required by this section and containing any Group A2L or B2L flammable refrigerants and containing no Group A2, B2, A3, or B3 flammable refrigerants shall be constructed and maintained in accordance with Section 1105 and Sections 1106.4.1 through 1106.4.3.

EXCEPTIONS:
1. *Machinery rooms* are not required for *listed equipment* and *appliances* containing not more than 6.6 pounds (3 kg) of refrigerant, regardless of the refrigerant's safety classification, where installed in accordance with the *equipment's* or *appliance's* listing and the *equipment* or *appliance* manufacturer's installation instructions.
2. Piping in compliance with Section 1107 is allowed in other locations to connect components installed in a *machinery room* with those installed outdoors.

1104.3.1 High-probability air conditioners, heat pumps, and dehumidifiers. High-probability air conditioners, heat pumps, and dehumidifiers shall use Group A1 or A2L refrigerant.

EXCEPTIONS:
1. Equipment *listed* for and used in residential *occupancies* containing a maximum of 6.6 pounds (3 kg) of refrigerant.
2. Equipment *listed* for and used in commercial *occupancies* containing a maximum of 22 pounds (10 kg) of refrigerant.
3. Industrial *occupancies*.

1104.3.2 Group A2, A3, B2, and B3 refrigerants. Group A2 and B2 refrigerants shall not be used in high-probability systems. Group A3 and B3 refrigerants shall not be used except where *approved*.

EXCEPTIONS:
1. Laboratories where the floor area per occupant is not less than 100 square feet (9.3 m^2).
2. *Listed* self-contained systems having a maximum of 0.331 pounds (150 g) of Group A3 refrigerant.
3. Industrial *occupancies*.
4. Equipment *listed* for and used in residential occupancies containing a maximum of 6.6 pounds (3 kg) of Group A2 or B2 refrigerant.
5. Equipment *listed* for and used in commercial *occupancies* containing a maximum of 22 pounds (10 kg) of Group A2 or B2 refrigerant.
6. Self-contained equipment using Groups A3 and B3 refrigerants that are *listed* to UL 60335-2-89 and installed in accordance with the listing, the manufacturer's installation instructions, and ASHRAE 15.
7. Self-contained equipment using Groups A3 and B3 refrigerants that are *listed* to UL 60335-2-40 and installed in accordance with the listing, the manufacturer's installation instructions, and ASHRAE 15.

TABLE 1104.3.2

MAXIMUM PERMISSIBLE QUANTITIES OF REFRIGERANTS

This table is not adopted.

1104.3.5 Corridors and lobbies. Refrigerating systems in a public corridor or lobby shall comply with ASHRAE 15 Section 7.5.1.2.

NEW SECTION

WAC 51-52-1105A Section 1105—Machinery room, general requirements.

1105.7 Termination of relief devices and refrigerant piping shaft ventilation discharge air outlets. Pressure relief devices, fusible plugs, and purge systems located within the machinery room and refrigerant piping shaft natural and mechanical ventilation discharge air shall terminate outside of the *building* and comply with all of the following:

1. The point of vent discharge shall be at a location not less than 15 feet (4572 mm) above the adjoining grade level.

2. The point of vent discharge shall be not less than 20 feet (6096 mm) from any window, ventilation opening or exit.

3. For heavier-than-air refrigerants, the point of vent discharge shall be located not less than 20 feet (6096 mm) horizontally from below-grade walkways, entrances, pits, or ramps if a release of the entire system charge into such a space would yield a concentration of refrigerant in excess of the refrigerant concentration limit (RLC). The direct discharge of a relief vent into enclosed outdoor spaces, such as a courtyard with walls on all sides, shall not be permitted if a release of the entire system charge into such a space would yield a concentration of refrigerant in excess of the RLC. The volume for the refrigerant concentration calculation shall be determined using the gross area of the space and a height of 8.2 feet (2500 mm), regardless of the actual height of the enclosed space.

4. The termination point of a vent discharge line shall be made in a manner that prevents discharged refrigerant from spraying directly onto personnel that might be in the vicinity.

5. The termination point of vent discharge lines shall be made in a manner that prevents foreign material or debris from entering the discharge outlet.

6. Relief vent lines that terminate vertically upward and are subject to moisture entry shall be provided with a drip pocket having a minimum of 24 inches (610 mm) in length and having the size of the vent discharge pipe. The drip pocket shall be installed to extend below the first change in vent pipe direction and shall be fitted with a valve or drain plug to permit removal of accumulated moisture.

NEW SECTION

WAC 51-52-1106A Section 1106—Machinery room, special requirements.

1106.3 Class 2 and 3 refrigerants. Where any flammable refrigerants of Groups A2, A3, B2, and B3 are used, the *machinery room* shall conform

to the Class I, Division 2, *hazardous location* classification requirements of NFPA 70.

1106.4 Group A2L and B2L refrigerants. *Machinery rooms* containing any Group A2L or B2L refrigerants and containing no refrigerants of Group A2, A3, B2, or B3 shall comply with Sections 1106.4.1 through 1106.4.3.

1106.4.1 Elevated temperatures. Open flame-producing devices or continuously operating hot surfaces over 1290°F (700°C) shall not be permanently installed in the room.

1106.4.2 Refrigerant detector. In addition to the requirements of Section 1105.3, refrigerant detectors shall signal an alarm and activate the ventilation system in accordance with the response time specified in Table 1106.4.2.

Table 1106.4.2

GROUP A2L AND B2L DETECTOR ACTIVATION

ACTIVATION LEVEL	MAXIMUM RESPONSE TIME (seconds)	ASHRAE 15 VENTILATION (seconds)	ALARM RESET	ALARM TYPE
Less than or equal to the OEL in Table 1103.1	300	1	Automatic	Trouble
Less than or equal to the refrigerant concentration level in Table 1103.1	15	2	Manual	Emergency

1106.4.3 Mechanical ventilation. The *machinery room* shall have a mechanical ventilation system complying with ASHRAE 15.

NEW SECTION

WAC 51-52-1107A Section 1107—Piping material.

1107.4 Piping materials standards. Refrigerant pipe shall conform to one or more of the standards listed in Table 1107.4. For refrigeration systems complying with ASHRAE 15.2 used in residential occupancies serving only a *single dwelling* unit or *sleeping unit*, refrigerant piping and tubing shall be limited to aluminum, copper, and copper alloy. The exterior of the pipe shall be protected from corrosion and degradation.

1107.5 Pipe fittings. Refrigerant pipe fittings shall be approved for installation with the piping materials to be installed, and shall conform to one or more of the standards listed in Table 1107.5 or shall be *listed* and *labeled* as complying with UL 207. For refrigeration systems complying with ASHRAE 15.2 used in residential occupancies serving only a single *dwelling unit* or *sleeping unit*, refrigerant fittings shall be limited to aluminum, copper, copper alloys, stainless steel, and steel.

NEW SECTION

WAC 51-52-1109A Section 1109—Refrigerant pipe installation.

1109.2.2 Refrigerant pipe enclosure. Refrigerant piping shall be protected by locating it within the *building* elements or within protective enclosures.

EXCEPTION: Piping protection within the *building* elements or protective enclosure shall not be required in any of the following locations:
1. Where installed without *ready access* or located more than 7 feet 3 inches (2210 mm) above the finished floor.
2. Where located within 6 feet (1829 mm) of the refrigerant unit or *appliance*.
3. Where located in a *machinery room* complying with Section 1105.
4. Outside the *building*:
4.1. Where protected from damage from the weather including, but not limited to, hail, ice, and snow loads.
4.2. Where protected from damage within the expected foot or traffic path.
4.3. Where installed underground not less than 8 inches (200 mm) below finished grade and protected against corrosion.

1109.2.5 Refrigerant pipe shafts. Refrigerant piping that penetrates two or more floor/ceiling assemblies shall be enclosed in a fire-resistance-rated shaft enclosure. The fire-resistance-rated shaft enclosure shall comply with Section 713 of the *International Building Code*. Refrigerant pipe shafts that are naturally or mechanically ventilated shall be constructed as exterior building envelope walls with thermal insulation and air barrier construction required by the *Washington State Energy Code*.

EXCEPTIONS: 1. *Refrigeration* systems using R-718 refrigerant (water).
2. Piping in a direct *refrigeration* system where the refrigerant quantity does not exceed the limits of Table 1103.1 for the smallest occupied space through which the piping passes.
3. Piping located on the exterior of the *building* where vented to the outdoors. Natural ventilation openings shall be distributed vertically along the enclosure to prevent containment of refrigerant piping leaks and be located a minimum of 3 feet (914 mm) from operable openings into the building. Mechanical ventilation of exterior enclosures to comply with Section 1109.3.2.

1109.2.7 Pipe identification. Refrigerant pipe located in areas other than the room or space where the refrigerating *equipment* is located shall be identified. The pipe identification shall be located at intervals not exceeding 20 feet (6096 mm) on the refrigerant piping or pipe insulation. The minimum height of lettering of the identification label shall be 1/2 inch (12.7 mm). The identification shall indicate the *refrigerant designation* and safety group classification of the refrigerant used in the piping system. For Group A2L and B2L refrigerants, the identification shall also include the following statement: "WARNING-Risk of Fire. Flammable Refrigerant." For Groups A2, A3, B2, and B3 refrigerants, the identification shall also include the following statement: "DANGER-Risk of Fire or Explosion. Flammable Refrigerant." For any Group B refrigerant, the identification shall also include the following statement: "DANGER-Toxic Refrigerant."

EXCEPTION: For *refrigeration* systems complying with ASHRAE 15.2 used in residential occupancies serving only a single *dwelling unit* or *sleeping unit*, pipe identification shall not be required.

1109.3.2 Shaft ventilation. Refrigerant pipe shafts with systems using Group A2L or B2L refrigerant shall be naturally or mechanically ventilated. The shaft natural ventilation discharge outlet and mechanical ventilation discharge exhaust outlet shall comply with Sections 501.3.1 and 1105.7. Naturally ventilated shafts shall have a pipe, duct or conduit not less than 4 inches (102 mm) in diameter that connects to the lowest point of the shaft and extends to the outdoors. The pipe, duct or conduit shall be level or pitched downward to the outdoors. A *makeup air* opening shall be provided at the top of the shaft. Mechanically ventilated shafts shall have a minimum airflow velocity in accordance with Table 1109.3.2. The mechanical ventilation shall be continuously operated or activated by a refrigerant detector. *Makeup air* shall be provided at the inlet to the shaft for mechanically ventilated shafts. Systems utilizing a refrigerant detector shall activate the mechanical ventilation at a maximum refrigerant concentration of 25 percent of the lower flammable limit of the refrigerant.

The detector, or a sampling tube that draws air to the detector, shall be located in an area where refrigerant from a leak will concentrate.

EXCEPTIONS: 1. The shaft shall not be required to be ventilated for double-wall refrigerant pipe where the interstitial space of the double-wall pipe is vented to the outdoors.
2. For refrigeration systems complying with ASHRAE 15.2 used in residential occupancies serving only a single *dwelling unit* or *sleeping unit*, shaft ventilation shall not be required where the pipe or tube is continuous without fittings in the shaft.

1109.4.2 Shaft ventilation. Refrigerant pipe shafts with one or more systems using any Group A2, A3, B2, or B3 refrigerant shall be continuously mechanically ventilated and shall include a refrigerant detector. The shaft ventilation exhaust outlet shall comply with Sections 501.3.1 and 1105.7. Mechanically ventilated shafts shall have a minimum airflow velocity as specified in Table 1109.3.2. *Makeup air* shall be provided at the inlet to the shaft for mechanically ventilated shafts. The shaft shall not be required to be ventilated for double-wall refrigerant pipe where the interstitial space of the double-wall pipe is vented to the outdoors.

NEW SECTION

WAC 51-52-1110A Section 1110—Refrigerant piping system test.

1110.2 Exposure of refrigerant piping system. Refrigerant pipe and joints installed in the field shall be exposed for visual inspection and testing prior to being covered or enclosed.

EXCEPTION: Factory-insulated refrigerant piping line-sets are exempt from exposing the piping material for visual inspection.

NEW SECTION

WAC 51-52-1500A Chapter 15—Referenced standards. The following referenced standards are amended or added to Chapter 15.

ANCE

UL/CSA/ANCE 60335-2-40—2022 Household and Similar Electrical Appliances - Safety - Part 2-40: Particular Requirements for Electrical Heat Pumps, Air Conditioners and Dehumidifiers. 1101.2

ASHRAE

15-2022 Safety Standard for Refrigeration Systems. 1101.6, 1104.3.5, 1105.8, 1106.4.2, 1108.1

15.2-2022 Safety Standard for Refrigeration Systems in Residential Applications. 1101.1.1, 1107.4, 1107.5, 1109.2.7, 1109.3.2

34-2022 Designation and Safety Classification of Refrigerants. . . . 202, 1102.2.1, 1103.1

CSA

UL/CSA/ANCE 60335-2-40—2022 Household and Similar Electrical Appliances - Safety - Part 2-40: Particular Requirements for Electrical Heat Pumps, Air Conditioners and Dehumidifiers. 1101.2

UL/CSA/ANCE 60335-2-40—2022 Household and Similar Electrical Appliances - Safety - Part 2-40: Particular Requirements for Electrical Heat Pumps, Air Conditioners and

Dehumidifiers. 1101.2

WSR 26-01-086
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-304—Filed December 15, 2025, 10:29 a.m., effective December 15, 2025, 10:29 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: SHB 1325, passed in 2025, requires the department of fish and wildlife (department) to amend hunting rules concerning big game violations. WAC 220-440-260 currently cites an incorrect subsection within RCW 77.15.160. Due to this, enforcement officers are unable to write citations and enforce this rule.

Citation of Rules Affected by this Order: Amending WAC 220-440-260.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.04.020, 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 for department enforcement officers to comply with the recently enacted state statutes resulting from SHB 1325. Chronic wasting disease (CWD) is a fatal neurologic disease of cervids, including deer, elk, moose, and caribou. It is caused by infectious proteins called prions that are transmitted directly from animal to animal or indirectly through environments. There is no cure or vaccine for CWD. WAC 220-440-260 concerns prohibition of feeding deer, elk, or moose. Enforcement has no authority to cite a violation of this WAC unless the referencing infraction is updated. The department will be initiating a permanent rule making for this update.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 15, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-440-26000D Prohibition of feeding deer, elk, or moose. Notwithstanding the provisions of WAC 220-440-260, effective immediately, until further notice:

(1) Except as provided in subsection (3) of this section, it is an infraction under RCW 77.15.160 (11)(b) to place, deposit, distribute, or scatter feed including, but not limited to, grain, hay, minerals, salt, fruit, or other such substances or food types to feed, lure or attract deer, elk, or moose not lawfully held in captivity. A person may not allow food to be placed for the purposes of feeding other wildlife that causes deer, elk, or moose to congregate.

(2) This rule does not apply in the completion of any of the following agricultural practices:

(a) Cultivation, production, and harvest of crops including, but not limited to, fruit, vegetable, hay, and grains;

(b) Animal husbandry related to the care and feeding of domestic livestock and poultry.

(3) The director may authorize the feeding of deer, elk, or moose under the following conditions:

(a) Prevent damage to private property;

(b) Mitigate population loss anticipated by a predicted winter mortality;

(c) Support a WDFW research or management program.

WSR 26-01-128
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed December 18, 2025, 9:41 a.m., effective December 18, 2025, 9:41 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to amend college in the high school rules in alignment with 2SSB 5048 (2023) that eliminated fees for students.

This is a renewal of emergency rule filing as the office of superintendent of public instruction (OSPI) continues to conduct permanent rule making.

Citation of Rules Affected by this Order: Repealing WAC 392-725-325; and amending WAC 392-725-005, 392-725-015, 392-725-050, 392-725-225, 392-725-235, 392-725-250, and 392-725-300.

Statutory Authority for Adoption: RCW 28A.600.287 and 2SSB 5048 (chapter 314, Laws of 2023).

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 emergency rules are necessary to ensure students participating in college in the high school programs are not required to pay fees as provided in 2SSB 5048 during the 2023-24 school year.

OSPI will also conduct permanent rule making concerning college in the high school (chapter 392-725 WAC).

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 7, Repealed 1.

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

Number of Sections Adopted on the Agency's own Initiative: New 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: December 18, 2025.

Chris P.S. Reykdal
State Superintendent of Public Instruction

OTS-4916.2

AMENDATORY SECTION (Amending WSR 16-14-030, filed 6/27/16, effective 7/28/16)

WAC 392-725-005 Authority. The authority for this chapter is RCW ((~~28A.600.290~~)) 28A.600.287, which authorizes the superintendent of public instruction to adopt rules governing RCW ((~~28A.600.290~~)) 28A.600.287, with the state board of community and technical colleges, the student achievement council, and the public baccalaureate institutions to jointly develop rules, and with the association of Washington school principals to be consulted. The rules set forth in this chapter have been jointly developed and agreed upon by the four organizations with the council of presidents representing the public baccalaureate institutions. The rules may be modified only by agreement of the superintendent of public instruction, state board of community and technical colleges, the student achievement council, and an organization representing the interest of the public baccalaureate institutions.

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

WAC 392-725-015 Definitions. The following definitions in this section apply throughout this chapter.

(1) **"College in the high school course"** means a dual credit course provided on a high school campus or in a high school environment in which an eligible student is given the opportunity to earn high school credit to be awarded by a district, charter school, or tribal compact school and college credit awarded by the participating institution of higher education by completing a college course with a passing grade. College in the high school courses may be either academic or career and technical (vocational) education.

(2) **"College in the high school program"** means the subset of dual credit courses meeting NACEP quality standards and provided on a high school campus or in a high school environment in which an eligible student is given the opportunity to earn high school credit to be awarded by a district, charter school, or tribal compact school and college credit awarded by the participating institution of higher education by completing a college course with a passing grade.

(3) **"Eligible student"** means any student who meets the following conditions:

(a) The student meets the definition of an enrolled student pursuant to WAC 392-121-106.

(b) The student under the grade placement policies of the district, charter school, or tribal compact school through which the high school credits will be awarded has been deemed to be a ((~~tenth, eleventh, or twelfth~~)) 9th, 10th, 11th, or 12th grade student.

(4) **"Participating institution of higher education"** means an institution of higher education that:

(a) A district, charter school, or tribal compact school has contracted with to provide the college in the high school program;

(b) Meets the definition in RCW 28B.10.016, is authorized or exempt under the requirements of chapter 28B.85 RCW, or is a public tribal college located in Washington as ((~~noted in RCW 28A.600.290 (7)(a)~~)) described in RCW 28A.600.287 (12)(c);

(c) Meets the college in the high school program standards outlined in WAC 392-725-130 through 392-725-170; and

(d) Is accredited by National Alliance of Concurrent Enrollment Partnerships or commits to the reporting of evidence requirement outlined in WAC 392-725-120.

(5) **"National Alliance of Concurrent Enrollment Partnerships"** is the professional organization that works to ensure that college in the high school courses are as rigorous as courses offered on the sponsoring college campuses. National Alliance of Concurrent Enrollment Partnerships (NACEP) has defined a set of quality standards that is the basis of their accreditation process.

(6) **"Council of presidents"** is defined throughout this chapter as the organization representing the interest of public baccalaureate institutions((~~, specific to RCW 28A.600.290(6).~~

~~(7) **"Fees."**~~

~~(a) **"College in the high school fees"** means the per credit or per course fee charged by the participating institution of higher education for the registration for the college course.~~

~~(i) The maximum college in the high school fee shall not exceed the college in the high school state-funded subsidies described in RCW 28A.600.290.~~

~~(ii) The college in the high school fee may be less than the college in the high school state-funded subsidies.~~

~~(iii) The institution of higher education must receive the corresponding fee for any student seeking to earn college credit from the college in the high school course in accordance with the general requirements identified in WAC 392-725-225 (2)(a) unless the student qualifies for the state-funded subsidies in accordance with WAC 392-725-325(4).~~

~~(b) **"Other associated college in the high school fees"** means additional fees required to fully participate in the college in the high school program charged by the participating institution of higher education such as registration fees and fees for consumables.~~

~~(8) **"College in the high school state-funded subsidies"** means the amount provided in the Omnibus Appropriations Act that pays the college in the high school fee for specific eligible eleventh or twelfth grade students pursuant to RCW 28A.600.290 (1)(b)(i) only and for the limited amount provided in WAC 392-725-325(2)~~)).

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

WAC 392-725-050 Local agreement requirement. Prior to the start of the college in the high school program(s), a local agreement between the district, charter school, or tribal compact school and the participating institution of higher education must be developed and in place. The agreement shall be for no more than one school year, meet the district, charter school, or tribal compact school's board policies and the policies of the institution of higher education regarding contracting agreements, and address the following requirements:

(1) List of college in the high school courses.

(2) College in the high school student standards pursuant to WAC 392-725-130 will be met.

(3) College in the high school curriculum and assessment standards pursuant to WAC 392-725-140 will be met.

(4) College in the high school faculty standards pursuant to WAC 392-725-150 will be met.

(5) College in the high school evaluation standards pursuant to WAC 392-725-160 will be met.

(6) College in the high school partnership standards pursuant to WAC 392-725-170 will be met.

(7) Award of high school credits pursuant to WAC 392-725-200 will be met.

(8) District, charter school, or tribal compact school's responsibilities for offering college in the high school program.

(9) ((~~Institution of higher education's fee amount per college credit or per college course and a description and amount of other associated college in the high school fees.~~

~~(10)~~)) Course materials including, but not limited to, textbooks for each college in the high school course, and which party will be responsible to provide.

((~~(11)~~)) (10) Provide an explanation of how any compensation paid to the instructor for work performed beyond their contract with the district, charter school, or tribal compact school will be calculated and provide details of what duties the compensation represents.

((~~(12) Method and collection of college in the high school fee and other associated college in the high school fees.~~

~~(13)~~)) (11) Districts, charter schools, tribal compact schools, and institutions of higher education shall as necessary assure compliance with their respective duties under federal and state law.

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

WAC 392-725-225 College in the high school general requirements. (1) Participating districts, charter schools, or tribal compact schools must provide general information about the college in the high school program to all students in grades ((~~nine~~)) eight through ((~~twelve~~)) 12 and to the parents and guardians of those students.

(2) The enrollment of a student who meets the definition of WAC 392-725-015(2) in the college in the high school program shall be governed as follows:

(a) An eligible student seeking to earn college credit is responsible for enrolling into an institution of higher education on or before the deadline established by the institution of higher education.

(b) An eligible student is entitled to enroll in an institution of higher education for college in the high school program purposes subject to each of the following conditions and limitations:

(i) Enrollment is limited to college courses.

(ii) Prior confirmation pursuant to WAC 392-725-200 by the district, charter school, or tribal compact school of the amount of high school credit to be awarded for a college in the high school course on or before the deadline for enrollment established by the institution of higher education.

(iii) Acceptance of the student by the institution of higher education subject to enrollment requirements and limitations established by the institution.

AMENDATORY SECTION (Amending WSR 17-21-001, filed 10/5/17, effective 11/5/17)

WAC 392-725-235 Co-delivery of college in the high school courses. (1) In cases where a college in the high school course is co-delivered with another dual credit course, such as career and technical education dual credit, advanced placement, international baccalaureate, or Cambridge international, the participating institution of higher education, in coordination with the institution's academic department, shall assess curriculum alignment and approve the option to provide a co-delivered course.

(2) In cases where a college in the high school course is co-delivered with another dual credit course, the high school transcript shall reflect the co-delivered courses as follows:

(a) The course title as listed on the high school transcript shall begin with the institute of higher education's curriculum and course number, as described in the office of superintendent of public instruction CEDARS manual.

(b) Any additional course title description for a co-delivered college in the high school course title shall be included pursuant to WAC 392-415-070.

Official course abbreviations for career and technical education dual credit, advanced placement, international baccalaureate and Cambridge international shall be included on the high school transcript as listed in appendix Q of the office of superintendent of public instruction CEDARS manual.

(c) For approved co-delivered courses, as provided in subsection (1) of this section, the high school transcript course title and course designators may reflect two dual credit programs in cases where students have met any required prerequisites or other entrance requirements for both programs.

(3) Students choosing to enroll in a co-delivered college in the high school course for the purpose of earning college credit must meet the college in the high school enrollment requirements outlined in WAC 392-725-225(2).

AMENDATORY SECTION (Amending WSR 16-14-030, filed 6/27/16, effective 7/28/16)

WAC 392-725-250 Transferability of college credit. (1) College in the high school programs may include both academic and career and technical education. The college credit shall be applied at institutions of higher education ((~~toward:~~

~~(a) General education requirements; or~~

~~(b)~~)) as appropriate and applicable to the student's degree requirements.

(2) A college in the high school course has the same transferability as its equivalent course on the college campus. Some courses including career and technical education courses may not meet specific general education and/or degree requirements.

AMENDATORY SECTION (Amending WSR 19-12-049, filed 5/31/19, effective 7/1/19)

WAC 392-725-300 Finance. ((~~(1)~~)) Districts, charter schools, and tribal compact schools claim the college in the high school courses for basic education funding based on the course's average enrolled weekly minutes pursuant to WAC 392-121-122. Courses that qualify for vocational enhanced funding can be claimed pursuant to WAC 392-121-138.

((~~(2) The participating institution of higher education receives college in the high school fees as defined in WAC 392-725-015 (7)(a) and other associated college in the high school fees for eligible students as defined in WAC 392-725-015 (7)(b). The amount and method of collection of these fees shall be outlined in local agreement.~~

~~(3) For college in the high school courses that qualify for state funded subsidies as defined in WAC 392-725-015(8) and based on the per student limitations provided in WAC 392-725-325(2), these subsidies are provided in lieu of college in the high school fees as defined in WAC 392-725-015 (7)(a).~~))

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-725-325	College in the high school state funded subsidies.

WSR 26-01-129
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed December 18, 2025, 9:42 a.m., effective December 18, 2025, 9:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of the emergency rule making is to adopt rules to authorize full-time enrollment (FTE) funding for students enrolled in competency-based education programs identified by the state board of education as required by SB 5189 (2025).

The office of superintendent of public instruction (OSPI) will also conduct permanent rule making concerning these rules.

Citation of Rules Affected by this Order: New WAC 392-121-189; and amending WAC 392-121-107.

Statutory Authority for Adoption: SB 5189 (chapter 278, Laws of 2025).

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 emergency rules are necessary to be in place by the beginning of the 2025-26 school year to ensure that students enrolled in approved competency-based education programs can be claimed as a full-time student or 1.0 FTE for the purpose of generating state basic education funding.

OSPI will also conduct permanent rule making concerning these 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 1, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: December 18, 2025.

Chris P.S. Reykdal
State Superintendent of Public Instruction

RDS-6607.2

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - Teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, or teaching/learning experiences conducted by charter school staff as directed by the charter school administration and charter school board, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district or charter school for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - Alternative learning experience provided by the school district or charter school in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - Instruction provided by a contractor in conformance with WAC 392-121-188 or 392-121-1885.

(d) National guard - Participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320.

(e) Ancillary service - Any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district or charter school staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district or charter school, certificated contact time pursuant to RCW 28A.225.010 (4)(a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts and charter schools report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Worksite learning - Training provided in accordance with WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - Attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.400, chapter 392-169 WAC.

(h) Transition school - Participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district or charter school.

(i) Technical college direct funding - Enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the

school district agree to have the school district report such enrollment.

(j) Dropout reengagement program - Enrollment in a state approved dropout reengagement program pursuant to RCW 28A.175.100 and chapter 392-700 WAC.

(k) Paid work experience - Training provided in accordance with WAC 392-410-316 and reported as provided in WAC 392-121-139.

(l) Transition to kindergarten - Pursuant to RCW 28A.300.072 and chapter 392-425 WAC.

(m) Competency-based education programs that meet the criteria outlined in WAC 392-121-189.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, county and city adult jails, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188 or 392-121-1885;

(h) Enrollment for residents of the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

NEW SECTION

WAC 392-121-189 Competency-based education requirement. (1) This section applies solely to all competency-based education programs that have been identified by the state board of education prior to the beginning of the school year based on:

(a) School membership in the mastery-based learning collaborative established in section 502(2), chapter 334, Laws of 2021;

(b) Current waiver from credit-based graduation requirements granted by the state board of education under RCW 28A.300.750; or

(c) Approval based on a process designed and recommended by the state board of education as directed by section 3, chapter 278, Laws of 2025, once rules have been adopted by the board.

(d) State-approved dropout reengagement programs established under RCW 28A.175.100 are prohibited in using these rules to claim state funding and would be limited to the rules found in chapter 392-700 WAC.

(e) Districts can elect to claim students enrolled in eligible competency-based programs using the alternative learning experience rules provided in WAC 392-121-182 and are not required to use the rules found in this section. The decision on which method to claim each program's enrollment must be determined prior to the beginning of the school year and apply to all students within each program for the duration of the school year.

(2)(a) For students enrolled in competency-based education programs that are conducted exclusively in a school setting, the FTE in competency-based education programs is based on the student's scheduled weekly minutes divided by 1,665.

(b) For students enrolled in competency-based education programs that are conducted remotely or with a hybrid remote/in-person model, FTE will be based on the weekly minutes included in the student's documented weekly learning schedule divided by 1,665. This subsection does not reduce or eliminate any worksite learning requirements contained in WAC 392-410-315.

(3) Students enrolled in eligible competency-based education programs would be subject to the following limitations:

(a) For students enrolled in Running Start for more than six college credits and being claimed by the college for more than a 0.40 FTE, the competency-based education program FTE is limited to the difference of 1.40 FTE and the Running Start FTE.

(b) For students enrolled in a skill center course and being claimed by the skill center for more than a 0.60 FTE, the competency-based education program FTE is limited to the difference of 1.60 FTE and the FTE claimed by the skill center.

(c) For students that are enrolled in other school(s), the competency-based education program's FTE is limited to the difference of 1.00 FTE and the FTE claimed by the other school(s).

(4) FTE claimed for vocational courses as outlined in WAC 392-121-138 would be limited to the number of hours approved in the CTE framework and all other CTE program requirements must be met, including the course being delivered by an CTE endorsed instructor.

(5) District must maintain the following documentation for each student claimed as a competency-based education program FTE:

(a) For all students, evidence of participation or engagement with a certificated instructor within the prior 20 consecutive school days of the monthly count day.

(b) For students enrolled in competency-based education models where students are learning remotely or in a hybrid remote/in-person model, documentation of a certificated instructor's weekly monitoring of the student's progress.

WSR 26-01-130
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed December 18, 2025, 9:42 a.m., effective December 18, 2025, 9:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to expand access to running start in alignment with 2SHB 1316 (2023) and E2SSB 5670 (2024), expand state funding for students receiving special education funding who turn 21 in alignment with SSB 5253 (2025), and clarify which students can be claimed for running start funding for the first count of a college term. Additionally, the rules provide for funding, reporting, and administration of participating students' enrollment in running start courses.

The office of superintendent of public instruction (OSPI) will also conduct permanent rule making concerning these rules.

Citation of Rules Affected by this Order: Amending WAC 392-121-106, 392-121-119, 392-121-123, 392-121-136, 392-121-187, 392-122-220, 392-169-015, 392-169-020, 392-169-022, 392-169-025, 392-169-055, 392-169-100, 392-169-105, 392-169-115, 392-169-120, 392-172A-02000, 392-172A-02005, 392-172A-02055, and 392-700-035.

Statutory Authority for Adoption: 2SHB 1316 (chapter 350, Laws of 2023); E2SSB 5670 (chapter 159, Laws of 2024); SSB 5253 (chapter 256, Laws of 2025); RCW 28A.600.390 and 28A.150.290.

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 emergency rules are necessary to ensure eligible students can participate in running start at enrollment levels provided for in 2SHB 1316 (2023) and E2SSB 5670 (2024), and to ensure the running start requirements for student enrollment calculations, reporting, and program administration are effective by the beginning of the 2025-26 school year. Additionally, the emergency rules are necessary to ensure that students who are age 21 and receiving special education services can be claimed for state funding as provided for in SSB 5253 (2025) by the beginning of the 2025-26 school year. Finally, after several state auditor's office audits, it was determined that emergency rules are required to change the first count day for a college's term to the fourth school day of the first full month.

OSPI will also conduct permanent rule making concerning these 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 19, Repealed 0.

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

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

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

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

Date Adopted: December 18, 2025.

Chris P.S. Reykdal
State Superintendent of Public Instruction

RDS-6625.1

AMENDATORY SECTION (Amending WSR 24-14-074, filed 6/28/24, effective 7/29/24)

WAC 392-121-106 Definition—Enrolled student. As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because ((~~he or she~~)) the person:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district ((~~he or she~~)) the person resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250);

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.260; or

(g) Will be attending a public charter school, as defined by RCW 28A.710.010, located within Washington state.

(2) After the close of the prior school year has presented ((~~himself or herself~~)), or has been presented, to the school district's or charter school's appropriate official to be entered on the school district's or charter school's rolls for the purpose of attending school in grades kindergarten through 12 and transition to kindergarten program;

(3) Is under 21 years of age at the beginning of the school year. For a student receiving special education services, the person is under the age of 22 at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school year on or prior to the date being counted, in a course of study offered by the school district or charter school as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

AMENDATORY SECTION (Amending WSR 23-13-089, filed 6/16/23, effective 7/1/23)

WAC 392-121-119 Definition—Enrollment count dates. As used in this chapter, "enrollment count dates" means the fourth school day of September and the first school day of each of the nine subsequent months of the school year for all school districts and charter schools including districts and charter schools which commence basic education programs prior to September 1st. Exceptions are limited to the following:

(1) In school districts where not every school or grade follows the same calendar of school days, the calendar of an individual school or an entire grade level within a school may determine the monthly enrollment count date for that school or grade level within the school.

(2) ((~~The 11 count dates for running start enrollment shall be the first school day of each month of October through August.~~)) For running start programs, the count dates are:

(a) For the first full month of the term, the fourth school day of the month.

(b) For all other months, November through August, the first school day of the month.

(3) For open doors programs, the count days are the fourth school day of September and the first school day for the months, October through August.

AMENDATORY SECTION (Amending WSR 23-13-089, filed 6/16/23, effective 7/1/23)

WAC 392-121-123 Nonstandard school year programs. Except for running start, a student participating in a program of education occurring during the nonstandard school year on a tuition-free basis may be claimed for state funding to the extent that the student was not claimed as a 1.0 AAFTE during the regular school year (September through June), subject to the following:

(1) Eligible student FTE in a nonstandard school year program shall be claimed based upon the following:

(a) Enrolled hours based upon the standards in WAC 392-121-122 or 392-121-182.

(b) Credit based for student enrolled in a college program under WAC 392-121-188.

(c) A student enrolled in transition school is not eligible for nonstandard school year funding.

(2) A district or charter school shall make month by month evaluation of the student to determine if the following conditions were met during the regular school year:

(a) The student was not home schooled or enrolled in a private school.

(b) The student was not claimed as a 1.0 FTE in a regular or institution education program.

(3) For each month in which the conditions of subsection (2) of this section are met, the district or charter school shall determine the amount of student FTE claimed for the student. To the extent the enrollment claimed is less than 1.0 FTE for each month, the school district or charter school may claim nonstandard school year FTE based

upon the student enrollment in the nonstandard school year school program.

(4) For the running start program only, a student may be claimed up to 1.40 AAFTE for their running start enrollment.

AMENDATORY SECTION (Amending WSR 22-15-119, filed 7/20/22, effective 8/20/22)

WAC 392-121-136 Limitation on enrollment counts. Enrollment counts under WAC 392-121-106 through 392-121-133 are subject to the following limitations:

(1) Except as provided in (a), (b) and (c) of this subsection, no student, including a student enrolled in more than one school district, shall be counted as more than one full-time equivalent student on any count date or more than one annual average full-time equivalent student in any school year.

(a) School districts or charter schools operating approved vocational skills center programs during the summer vacation months may claim additional full-time equivalent students based upon actual enrollment in such vocational skills centers on the aggregate of enrolled hours based upon the fourth day of each summer session.

(i) Prior to the 2018-19 school year, each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 900 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(ii) Beginning with the 2018-19 school year, each district or charter school operating an approved vocational skills center program shall be entitled to claim one annual average full-time equivalent student for each 1,000 hours of planned student enrollment for the summer term(s) subject to the limitation in (c) of this subsection.

(b) Enrollment count limitations apply separately to a student's running start, skills center and high school enrollments and is limited to an overall maximum ((~~1.8~~)) 2.0 FTE.

(c) Subject to (b) of this subsection:

(i) A student enrolled in a skill center program during the regular school year may be claimed for up to a combined 1.6 full-time equivalent student.

(ii) A student enrolled in running start during the regular school year may be claimed for up to a combined ((~~1.2~~)) 1.4 full-time equivalent student.

(iii) A student enrolled in high school and skills center for more than 1.0 FTE, can be claimed for a ((~~0.2~~)) 0.4 running start FTE.

(iv) A student enrolled in an institutional education program under WAC 392-122-205 and a youth engagement program under chapter 392-700 WAC can be claimed up to a combined 2.0 FTE.

(v) Each student may be claimed for a maximum of a 1.0 full-time equivalent for the skills center enrollment, a maximum of a ((~~1.0~~)) 1.40 full-time equivalent for running start, a maximum of a 1.0 full-time equivalent for the student's high school enrollment, and a maximum of a 1.0 full-time equivalent for institutional education funding under WAC 392-122-225 subject to the overall combined FTE limitation in (b) of this subsection.

(2) Running start enrollment counts are limited as provided in chapter 392-169 WAC and specifically as provided in WAC 392-169-060.

(3) The full-time equivalent reported for a five year old preschool student with a disability is limited as provided in WAC 392-121-137.

(4) No kindergarten student, including a student enrolled in more than one school district, shall be counted as more than one-half of an annual average full-time equivalent student in any school year.

(5) A student reported as part-time by a state institution educational program on Form SPI E-672 shall not be reported by a school district or charter school for more than part-time basic education funding on that enrollment count date and the total enrollment reported by one or more school districts or charter schools for basic education and on Form SPI E-672 must not exceed one full-time equivalent, except if the student is enrolled in a youth reengagement program under chapter 392-700 WAC.

(6) Districts and charter schools providing an approved state-funded full-day kindergarten program as provided in chapter 28A.150 RCW (from E2SSB 5841) may claim for an additional 0.50 FTE based upon student enrolled hours in excess of the 0.50 FTE provided under subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 13-02-004, filed 12/19/12, effective 1/19/13)

WAC 392-121-187 Technical college direct-funded enrollment. Enrollment in a technical college pursuant to an interlocal agreement with a school district as provided in RCW 28B.50.533 may be counted as course of study generating state moneys payable directly to the technical college as provided in this section.

(1) The technical college shall submit a written request to the superintendent of public instruction and for each school district whose students are to be claimed by the college shall provide a copy of the interlocal agreement signed by the school district superintendent and the technical college president or authorized officials of the school district and college.

(2) The technical college shall report enrolled students monthly (September through June) to the superintendent of public instruction pursuant to this chapter and instructions provided by the superintendent. A separate report shall be submitted for each school district whose students are reported. Reports of students eligible for state basic education support shall show the total number of students served and total nonvocational and vocational FTE students on the monthly count date. Reports shall also show the name of each student, hours of enrollment per week on the monthly count date, and the nonvocational and vocational full-time equivalent reported for the student on the count date. Technical colleges claiming direct state handicapped funding under the interlocal agreement shall also report the number of enrolled handicapped students by handicapping category on the count dates of October through June pursuant to WAC 392-122-160 and chapter 392-172A WAC.

(3) The technical college shall report monthly to each school district whose students are served pursuant to this section. The report shall include at a minimum the data reported to the superintendent of public instruction pursuant to subsection (2) of this section.

(4) The technical college shall report only students who:

(a) Were under ((~~twenty-one~~)) 21 years of age at the beginning of the school year. For students receiving special education services, those who are under the age of 22 at the beginning of the school year;

(b) Are enrolled tuition-free;

(c) Are enrolled in a school district with which the technical college has a signed interlocal agreement on file with the superintendent of public instruction pursuant to subsection (1) of this section;

(d) Are enrolled in the school district for the purpose of earning a high school diploma or certificate; and

(e) Have actually participated in instructional activity at the technical college during the current school year.

(5) Enrollments claimed for state basic education funding by the technical college:

(a) Shall be for courses for which the student is earning high school graduation credit through the school district or the technical college; and

(b) Shall not include:

(i) Enrollment which is claimed by the school district for state funding; or

(ii) Enrollment which generates state or federal moneys for higher education, adult education, or job training for the technical college.

(6) Full-time equivalent students reported by the technical college for state basic education funding shall be determined pursuant to WAC 392-121-106 through ((~~392-121-183~~)) 392-121-182 except that the enrollment count dates shall be for the months of September through June. If a student is enrolled in courses provided by the school district as well as courses provided by the technical college, the combined full-time equivalents reported by the school district and the technical college are limited by WAC 392-121-136.

(7) The superintendent of public instruction shall make quarterly payments to the technical college as follows:

(a) Basic education allocations shall be determined pursuant to chapter 392-121 WAC based on average enrollments reported by the technical college for each school district times the average allocation per full-time equivalent high school student of the school district: Provided, that allocations for students enrolled in school districts with no more than two high schools with enrollments of less than ((~~three hundred~~)) 300 annual average full-time equivalent students shall be at the incremental rate generated by students in excess of ((~~sixty~~)) 60 annual average full-time equivalent students. Allocations for nonvocational and vocational full-time equivalent enrollments shall be calculated separately.

(b) Handicapped allocations shall be determined pursuant to WAC ((~~392-122-100~~)) 392-122-106 through 392-122-165 based on average handicapped enrollments and the school district's average allocation per handicapped student in each handicapping category.

(c) Quarterly payments shall provide the following percentages of the annual allocation:

December	30%
March	30%
June	20%
August	20%

RDS-6626.1

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-220 State institutional education program—Enrolled institutional education program student. A student may be counted as an enrolled institutional education program student under the following conditions:

(1)(a) The student is in a program in a department of corrections facility and is either:

(i) Under ((~~eighteen~~)) 18 years of age; or

(ii) Eighteen years of age and is continuing in the institutional education program with the permission of the department of corrections and the education provider; or

(b) The student is under ((~~twenty-one~~)) 21 years of age at the beginning of the school year ((~~and~~)). For a student receiving special education services, the student is under the age of 22 at the beginning of the school year;

(c) The student is either:

(i) In a residential school as defined in RCW 28A.190.020; or

(ii) Confined in a county juvenile detention center within the meaning of confinement provided in RCW 13.40.020;

(2) The student is scheduled to engage in educational activity in the institutional education program during the current week under WAC 392-122-212;

(3) During the current school year, the student has engaged in educational activity in the institutional education program provided or supervised by educational certificated staff under WAC 392-122-212; and

(4) The student does not qualify for any of the enrollment exclusions in WAC 392-122-221.

RDS-4902.3

AMENDATORY SECTION (Amending WSR 16-10-115, filed 5/4/16, effective 6/4/16)

WAC 392-169-015 Running start program—Definition. As used in this chapter, the terms "running start" and "running start program" mean the part-time to full-time equivalent enrollment under this chapter of students eligible ((~~eleventh and twelfth~~)) to be in 11th and 12th grade ((~~high school students~~)), as defined under this chapter, in an institution of higher education for the purpose of earning ((~~at least~~)) high school credit to be awarded by a school district, and such additional college level or university level credit as may be awarded by the institution of higher education. A running start program's course must be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students in a high school classroom.

AMENDATORY SECTION (Amending WSR 16-10-115, filed 5/4/16, effective 6/4/16)

WAC 392-169-020 Eligible student—Definition. As used in this chapter, the term "eligible student" means any person, including a person who is otherwise attending a private school or receiving home-based instruction, who meets each of the following conditions:

(1) The person is under the age of ((~~twenty-one~~)) 21 years of age as of September 1st of the school year. For a person receiving special education services, the person is under the age of 22 at the beginning of the school year.

(2) The person is eligible by reason of his or her residence or other criterion established by law to enroll in the school district through which the person seeks to obtain the award of running start program high school credit. See RCW 28A.225.160 (residents of a school district), RCW 28A.225.170 (residents of the United States and Indian Reservations), RCW ((~~28A.225.210~~)) 28A.225.200 (residents of "nonhigh" school districts), and RCW 28A.225.220 ("choice" students). Note: A running start student who changes his or her school district of residence, including after a rescindment of a choice transfer agreement following enrollment in running start, solely for the purpose of attending an institution of higher education under this chapter shall be deemed to have retained his or her residence in the school district of initial running start enrollment for high school graduation, funding and other purposes under this chapter.

(3) The person is eligible to be in the 11th or 12th grade under the grade placement policies of the school district through which the person seeks to obtain running start program high school credit ((~~to be in the eleventh or the twelfth grade~~)). For the summer term, eligibility is established when the person has completed the 10th grade at the end of the standard school year or will be eligible to enroll in the 11th or 12th grade in the upcoming school year based upon district grade placement policies.

(4) The person has not as of the beginning of the school year earned the credits required for the award of a high school diploma by the school district through which the person seeks to obtain the award of running start program high school credit.

(5) The person has not as of the beginning of the school year received a high school diploma or its equivalent. Note: A general education development certificate is not considered to be the equivalent of a high school diploma for purposes of this subsection.

(6) The person's running start program enrollment to date is below the applicable ((~~eleventh or twelfth~~)) 11th or 12th grade running start enrollment limitations established under WAC 392-169-055.

AMENDATORY SECTION (Amending WSR 95-09-042, filed 4/14/95, effective 5/15/95)

WAC 392-169-022 Running start student—Definition. For the purposes of this chapter and chapter 392-121 WAC, the term "running start student" means an eligible student:

(1) Who is enrolled in the running start program in accordance with this chapter on the enrollment count date identified in WAC 392-169-100;

(2) Whose enrollment has not been suspended or terminated by withdrawal, transfer, suspension or expulsion; and

(3) Who has participated in one or more instructional activities conducted by college or university staff (e.g., classroom or laboratory instruction, course work testing, post enrollment/registration academic counseling, and similar other instructional activities) on at least one college or university day ((~~during~~)) within the current ((~~quarter or semester~~)) term since the last enrollment count date.

AMENDATORY SECTION (Amending WSR 16-10-115, filed 5/4/16, effective 6/4/16)

WAC 392-169-025 Full-time equivalent (FTE) running start enrollment—Definition. For the purposes of this chapter and chapter 392-121 WAC, "full-time equivalent (FTE) running start enrollment" (i.e., college or university enrollment) means the FTE of running start students on an enrollment count date when each student's FTE is determined subject to the limitations of WAC 392-169-022, 392-169-055 and 392-169-115 as follows:

(1) FTE for running start enrollment is the result of dividing a student's enrolled college credits by ((~~fifteen~~)) 15. For Washington State University classes offered at the college campus only, the FTE for running start enrollment is the result of dividing a student's enrolled college semester credits by ((~~fifteen~~)) 15.

(2) The sum of ((~~the results of~~)) all running start enrollment under subsection (1) of this section at all colleges shall not exceed ((~~1.00~~)) 1.40 FTE per student on any count day ((~~except for the month of January~~)) or ((~~1.00~~)) 1.40 annual average FTE in any school year.

AMENDATORY SECTION (Amending WSR 23-13-089, filed 6/16/23, effective 7/1/23)

WAC 392-169-055 Enrollment—Extent and duration of running start enrollment. Running start program enrollment under this chapter is limited as follows ((~~(and as may be further limited for academic reasons under WAC 392-169-057)~~)):

(1) An eligible student who enrolls upon completion of grade 10 after the end of the standard school year and/or will be eligible to enroll in the 11th grade in the upcoming school year based on district grade placement policies may enroll in an institution of higher education for no more than the course work equivalent to 10 postsecondary credits in the summer term prior to enrolling in grade 11.

(2) An eligible student who enrolls in grade 11 may enroll in an institution of higher education while in the 11th grade for ((~~no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student.~~

~~(2)~~)) the course work equivalent to a maximum of 1.40 AAFTE over the course of the entire school year, including the summer term following the standard school year, depending on the student's concurrent enrollment in high school and/or skill center courses, subject to the AAFTE limitation under WAC 392-121-136.

(3) An eligible student who enrolls in grade 12 may enroll in an institution of higher education while in the 12th grade for ((~~no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student.~~

~~(3) As a general rule~~)) the course work equivalent to a maximum of 1.40 AAFTE over the course of the entire school year, including the summer term following the standard school year, depending on the student's concurrent enrollment in high school and/or skill center courses, subject to the AAFTE limitation under WAC 392-121-136.

(4) An eligible student who enrolls in summer term must have the capacity under the AAFTE limits established in subsections (2) and (3) of this section and may enroll for no more than the course work equivalent of 10 postsecondary credits.

(5) Even when a student does not enroll at the postsecondary level to the full extent permitted by subsections (1) through (4) of this section, a student's eligibility for running start program enrollment terminates at the end of the ((~~student's 12th grade regular academic year, notwithstanding the student's failure to have enrolled in an institution of higher education to the full extent permitted by subsections (1) and (2) of this section: Provided, That a student who has failed to meet high school graduation requirements as of the end of the student's 12th grade regular academic year (September through June) due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (2)~~)) school year in which a student meets the district's graduation requirements for high school graduation or the college's credit requirements for the award of an associate or applied associate degree.

(6) Students who have not yet graduated as of the end of the 12th grade standard school year would be eligible to enroll in the summer college term, provided they have capacity under AAFTE limits established in subsection (3) of this section.

(7) A student who has failed to meet high school graduation requirements as of the end of the student's 12th grade year due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (3) of this section.

AMENDATORY SECTION (Amending WSR 23-13-089, filed 6/16/23, effective 7/1/23)

WAC 392-169-100 Running start enrollment count dates. Enrollment count dates for the running start program shall be as follows:

(1) For community and technical colleges and for Central Washington University and Eastern Washington University:

(a) For the first full month of each term, the fourth college or university day of the month;

(b) For all other months between November and August, the first college or university day of ((~~each of the months of October through August; and~~)) the month.

(2) For Washington State University:

(a) For the first full month of each term, the fourth university day of the month;

(b) For all other months between October and July, the first university day of ((~~each of the months of September through July~~)) the month.

AMENDATORY SECTION (Amending WSR 95-09-042, filed 4/14/95, effective 5/15/95)

WAC 392-169-105 Finance—Institution of higher education reporting requirements. Each institution of higher education that enrolls an eligible student under this chapter shall periodically report enrollment information as follows:

(1) Within ((~~ten~~)) 10 calendar days of enrollment of the student, provide written notice to the student((~~,~~)) and the school district through which the student seeks to obtain running start program high school credit of the courses and the credit hours or instructional/clock hours of enrollment.

For monthly counts, the institution of higher education may report an enrollment estimate to comply with the reporting deadline. When an estimate is used, the institution must provide a revised final enrollment number no later than the next regular reporting date.

(2) After each monthly count date, the institution of higher education shall report running start student enrollments by the eighth day of the month to the school district through which the student seeks to obtain the award of running start program high school credit as is necessary for the school district to claim state running start basic education program moneys under this chapter and chapter 392-121 WAC.

(3) The monthly report shall be prepared in accordance with instructions provided by the superintendent of public instruction, and shall include, but not necessarily be limited to, the following:

(a) The total number of enrolled running start students on the count date (see the definition of a "running start student" in WAC 392-169-022);

(b) Total nonvocational running start FTE enrollment;

(c) Total vocational running start FTE enrollment; and

(d) The name of each running start student and the nonvocational and vocational running start FTE reported for the student rounded to the nearest second decimal place.

AMENDATORY SECTION (Amending WSR 13-02-006, filed 12/19/12, effective 1/19/13)

WAC 392-169-115 Finance—Limitations on enrollment counts. ((~~No running start student enrolled in one or more institutions of higher education reported under WAC 392-169-105 and 392-169-110 shall exceed one full-time equivalent running start student on any enrollment count~~

~~date except for the month of January or more than one annual average full-time equivalent student in any school year. An exception is allowed for January when the change in high school semesters may result in students exceeding the FTE limitation until the high school begins a new term.~~)) A student enrolled in both high school and running start may be claimed for a maximum of 1.40 combined monthly FTE and a maximum of 1.40 AAFTE.

(1) The high school may only claim a maximum of 1.00 FTE and AAFTE.

(2) A student whose enrollment is reported under WAC 392-169-105 and 392-169-110 may be claimed up to a 1.40 monthly FTE on any enrollment count date. No student may be claimed for more than 1.40 AAFTE in any school year.

(3) An exception is allowed for December and January when the high school term overlaps with the institution of higher education term but may result in a reduction of the available FTE for the spring term.

AMENDATORY SECTION (Amending WSR 95-09-042, filed 4/14/95, effective 5/15/95)

WAC 392-169-120 Finance—Documentation requirements. School districts and institutions of higher education shall maintain documentation supporting running start student enrollment and state funding claims, including the following:

(1) For each enrolled course, the institution of higher education documentation shall show each student's college or university enrollment status on each enrollment count date and evidence of the student's participation in college or university instructional activities conducted by college or university staff within the current term and on at least one college or university day since the last enrollment count date. See WAC 392-169-022(3) for a description of required "instructional activities."

(2) School district documentation shall show each student's school district enrollment status on each enrollment count date and evidence that the student is earning high school ((~~graduation~~)) credit for running start enrollment reported for state funding.

RDS-6627.1

AMENDATORY SECTION (Amending WSR 21-19-065, filed 9/14/21, effective 10/15/21)

WAC 392-172A-02000 Students' rights to a free appropriate public education (FAPE). (1) Each school district and residential or day schools operated under chapters 28A.190 and 72.40 RCW shall provide every student who is eligible for special education services between the age of three and ((~~twenty-one~~)) 22 years, a free appropriate public education program (FAPE). The right to a FAPE includes special education services for students who have been suspended or expelled from

school. A FAPE is also available to any student determined eligible for special education services even though the student has not failed or been retained in a course or grade and is advancing from grade to grade. The right to special education services for eligible students starts on their third birthday with an IEP in effect by that date. If an eligible student's third birthday occurs during the summer, the student's IEP team shall determine the date when services under the individualized education program will begin.

(2) A student who is determined eligible for special education services shall remain eligible until one of the following occurs:

(a) A group of qualified professionals and the parent of the student, based on a reevaluation, determines the student is no longer eligible for special education services; or

(b) The student has met high school graduation requirements established by the school district pursuant to rules of the state board of education, and the student has graduated from high school with a regular high school diploma. A regular high school diploma does not include a certificate of high school completion, or a general educational development credential. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with WAC 392-172A-05010; or

(c) The student enrolled in the public school system or is receiving services pursuant to chapter 28A.190 or 72.40 RCW has reached age ((~~twenty-one~~)) 22. The student whose ((~~twenty-first~~)) 22nd birthday occurs on or before August 31 would no longer be eligible for special education services. The student whose ((~~twenty-first~~)) 22nd birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year; or

(d) The student stops receiving special education services based upon a parent's written revocation to a school district pursuant to WAC 392-172A-03000 (2)(e).

AMENDATORY SECTION (Amending WSR 21-19-065, filed 9/14/21, effective 10/15/21)

WAC 392-172A-02005 Exceptions to a student's right to FAPE. (1) A student eligible for special education services residing in a state adult correctional facility is eligible for special education services pursuant to chapter 28A.193 RCW. The department of corrections is the agency assigned supervisory responsibility by the governor's office for any student not served pursuant to chapter 28A.193 RCW.

(2)(a) Students determined eligible for special education services and incarcerated in other adult correctional facilities will be provided special education and related services under chapter 28A.194 RCW.

(b) Subsection (2)(a) of this section does not apply to students aged ((~~eighteen to twenty-one~~)) 18 to 22 if they:

(i) Were not actually identified as being a student eligible for special education services; and

(ii) Did not have an IEP; unless the student:

(A) Had been identified as a student eligible for special education services and had received services in accordance with an IEP, but who left school prior to incarceration; or

(B) Did not have an IEP in his or her last education setting, but who had actually been identified as a student eligible for special education services.

AMENDATORY SECTION (Amending WSR 21-19-065, filed 9/14/21, effective 10/15/21)

WAC 392-172A-02055 Continuum of alternative placements. (1) Each school district shall ensure that a continuum of alternative placements is available to meet the special education and related services needs of students eligible for special education services between the ages of three and ((~~twenty-one~~)) 22 years old.

(2) The continuum required in this section for eligible students kindergarten (including five year olds in kindergarten) through age ((~~twenty-one~~)) 22 must:

(a) Include the placements listed in the definition of special education services in WAC 392-172A-01175, such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions; and

(b) Make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with general education classroom placement.

(3) The continuum of alternative placements a public agency providing special education and related services to a preschool child with a disability may include, but is not limited to, the following:

(a) Providing opportunities for the participation of preschool children with disabilities in preschool programs operated by public agencies other than school districts (such as head start or community-based child care);

(b) Enrolling preschool children with disabilities in private preschool programs for nondisabled preschool children;

(c) Locating classes for preschool children with disabilities in regular public elementary schools; and

(d) Providing services and instruction in the home.

(4) If a public agency determines that placement in a private preschool program is necessary for a child with a disability to receive FAPE, the public agency must make that program available at no cost to the parent.

RDS-6628.1

AMENDATORY SECTION (Amending WSR 22-15-119, filed 7/20/22, effective 8/20/22)

WAC 392-700-035 Student eligibility. (1) A student is eligible to enroll in a program when they meet the following criteria:

(a) Under 21 years of age at the beginning of the school year but whose 16th birthday occurs on or before September 1st. For a student receiving special education services, the person is under the age of 22 at the beginning of the school year;

(b) Has not yet met the high school graduation requirements of either the district, tribal compact school, charter school, or the college under RCW 28B.50.535; and

(c) At the time the student enrolls, the student is significantly behind in credits based on the student's cohort graduation date. The cohort graduation date is established as the end of the fourth school year after a student first enrolls in the ninth grade.

(i) A student who is more than 24 months from their cohort graduation date and has earned less than 65 percent of the high school credits expected to be earned by their cohort or has a ratio of earned credits to attempted credits that is less than 65 percent. A cohort is the group of students that enter the ninth grade in the same school year;

(ii) A student who is between 12 and 24 months from their cohort graduation date and has earned less than 70 percent of the high school credits expected to be earned by their cohort or has a ratio of earned credits to attempted credits that is less than 70 percent;

(iii) A student who is less than 12 months from their cohort graduation date or who has passed their cohort graduation date by less than 12 months and has earned less than 75 percent of the high school credits expected to be earned by their cohort or has a ratio of earned credits to attempted credits that is less than 75 percent;

(iv) A student who is passed their cohort graduation date by 12 months or more and has not met their district, tribal compact school, or charter school graduation requirements; or

(v) A student who has never attended the ninth grade and has earned zero high school credits.

(d) If determined not to be credit deficient as outlined in (c) of this subsection, has been recommended for enrollment by case managers from the department of social and health services, the juvenile justice system, a district, tribal compact school, or charter school designated school personnel, or staff from community agencies which provide educational advocacy services;

(e) Are not currently enrolled in any high school classes that receive state basic education funding, excluding an approved skill center program, a Jobs for Washington's Graduates program, running start program, or institutional education program under WAC 392-122-205;

(f) Students who are claimed for state funding by a district, tribal compact school, or charter school outside the district they live in, must be released by either a choice transfer or interdistrict agreement. When a choice transfer is in place, the student's resident district as defined in WAC 392-700-015(24) becomes the district operating the program.

(2) Once determined eligible for enrolling in the program, a student will retain eligibility, regardless of breaks in enrollment, until the student does one of the following:

(a) Earns a high school diploma;

(b) Earns an associate degree; or

(c) Becomes ineligible because of age which occurs when a student is 21 years of age as of September 1st. Students receiving special education services can continue until the end of the school year when they turn 22.

(3) A student's eligibility does not guarantee enrollment or continued enrollment in specific programs if the program determines that the student does not meet the program's enrollment criteria or if, af-

ter enrollment, a student's academic performance or conduct does not meet established program guidelines.

WSR 26-01-141
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-306—Filed December 18, 2025, 2:22 p.m., effective December 24, 2025]

Effective Date of Rule: December 24, 2025.

Purpose: This emergency rule opens recreational salmon retention and game fish catch-and-release fishing in Nisqually River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

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

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

Reasons for this Finding: This emergency rule is necessary to open salmon retention and game fish catch-and-release fishing in the lower Nisqually River. Projections based on recent stream surveys show that chum salmon are returning at abundance sufficient to support fishery openings for both the Washington department of fish and wildlife and the Nisqually Tribe, while meeting the escapement goal for the basin. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 18, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000V Freshwater exceptions to statewide rules—Puget Sound. Effective December 24, 2025, through January 31, 2026, recreational fishing seasons for Nisqually River are modified as described in this section. All other provisions of WAC 220-312-040 not addressed in this section, or unless otherwise amended by emergency rule, remain in effect:

Nisqually River, from the mouth to Clear Creek (lat. 47.034918, long. -122.676735):

(a) All species:

(i) Open Wednesdays through Saturdays. Closed Sundays through Tuesdays.

(ii) Night Closure.

(iii) Anti-snagging rule, except single-point barbless hooks required.

(b) Salmon:

(i) Daily limit 6 including no more than 2 adults.

(ii) Release wild Chinook and wild coho.

(c) Game fish: Catch-and-release.

WSR 26-01-142
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-305—Filed December 18, 2025, 3:05 p.m., effective January 1, 2026]

Effective Date of Rule: January 1, 2026.

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

Citation of Rules Affected by this Order: 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 modifies permanent regulations for commercial sales for nontreaty buyers in the 2026 Columbia River mainstem Zone 6 treaty winter sturgeon setline fisheries above Bonneville Dam. This rule is consistent with actions of the Columbia River Compact on December 17, 2025. Conforms state rules with tribal rules. The general public welfare is protected with the immediate opening of nontreaty buyers purchasing fish from treaty fisheries. This harvest opportunity allows for the tribal use of and public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to adopt permanent regulations.

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 18, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000D Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-020, effective January 1 through January 31, 2026, it is unlawful for a person to take or possess salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas (SMRCA) 1F, 1G, and 1H. However, those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, sturgeon, shad, carp, catfish, walleye, bass, or yellow perch under the following provisions:

(1) Open Areas: SMCRA 1F (Bonneville Pool)

(a) Season: 6 AM Monday, January 19, 2026, until 6 PM Thursday, January 29, 2026.

(b) Gear: Setline gear only.

(c) Allowable sales: Sturgeon from 38 to 54 inches fork length caught in Bonneville Pool, may be sold or kept for subsistence purposes.

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

(2) Open Areas: SMCRA 1G (The Dalles Pool)

(a) Season: 6 AM Thursday, January 8, 2026, until 6 PM Saturday, January 17, 2026.

(b) Gear: Setline gear only.

(c) Allowable sales: Sturgeon from 43 to 54 inches fork length caught in The Dalles Pool, may be sold or kept for subsistence purposes.

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

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

(a) Season: 6 AM Thursday, January 8, 2026, until 6 PM Saturday, January 17, 2026.

(b) Gear: Setline gear only.

(c) Allowable sales: Sturgeon from 43 to 54 inches fork length caught in John Day Pool, may be sold or kept for subsistence purposes.

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

(4) 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).

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

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

WSR 26-01-161
EMERGENCY RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed December 19, 2025, 11:40 a.m., effective December 19, 2025, 11:40 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend WAC 357-31-326 to add subsection (5) to allow an employer to grant up to 24 hours of leave with pay to employees who are experiencing extraordinary or severe impacts from the 2025 December atmospheric river and winter weather event referenced in Governor Bob Ferguson's Emergency Proclamation 25-07 issued on December 10, 2025.

Citation of Rules Affected by this Order: Amending WAC 357-31-326.

Statutory Authority for Adoption: RCW 41.06.133.

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 December 10, 2025, Governor Bob Ferguson issued Emergency Proclamation 25-07 in response to the December atmospheric river and winter weather event, which directed state agencies and departments to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the event.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: December 19, 2025.

Nathan Sherrard
Legal Affairs Counsel

RDS-6907.1

AMENDATORY SECTION (Amending WSR 25-12-067, filed 5/30/25, effective 7/1/25)

WAC 357-31-326 When may an employer grant leave with pay? (1) A general government employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to,

firefighting, search and rescue efforts, or donating blood. Leave granted to participate in blood and plasma donations must not exceed five days in a two-year period.

(2) A higher education employer may grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, participating in life-giving procedures, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(3) In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after 10 consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant two additional days of leave with pay for rest and recuperation after 14 consecutive calendar days performing emergency work under an incident command system. Additional days may only be granted if they fall on the employee's regularly scheduled workday and are taken consecutively. Leave with pay under this subsection is subject to the overtime provisions in WAC 357-28-265.

(4) An employer may grant up to 24 hours of leave with pay per occurrence to employees who are experiencing extraordinary or severe impacts of a wildfire disaster in the event the governor declares a state of emergency in any area of the state of Washington where the employee resides. Examples of extraordinary or severe impacts are displacement from their home temporarily or permanently through evacuation, or significant damage or loss.

The employer may require verification of the extraordinary or severe impacts regarding the use of leave with pay. In order to ensure continued essential services to the public, the employer may consider emergency operations requirements and/or program and staffing replacement requirements in the approval and scheduling of leave under this subsection. Leave under this subsection must be used within three months from the date the state of emergency was declared.

(5) An employer may grant up to 24 hours of leave with pay to employees who are experiencing extraordinary or severe impacts of the winter weather event referenced in proclamation 25-07 issued December 10, 2025, by the governor and declaring an emergency in the state of Washington where the employee resides. Examples of extraordinary or severe impacts are displacement from their home temporarily or permanently through evacuation, or significant damage or loss.

The employer may require verification of the extraordinary or severe impacts regarding the use of leave with pay under this subsection. In order to ensure continued essential services to the public, the employer may consider emergency operations requirements and/or program and staffing replacement requirements in the approval and scheduling of leave under this subsection.

WSR 26-01-164
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-308—Filed December 19, 2025, 4:28 p.m., effective December 22, 2025]

Effective Date of Rule: December 22, 2025.

Purpose: The purpose of this emergency rule is to close green sea urchin harvest in District 1.

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

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

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

Reasons for this Finding: This emergency rule is needed to close commercial harvest of green sea urchins in District 1 because the quota is expected to be reached [on] December 21, 2025. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 19, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000U Commercial sea urchin fisheries. Effective December 22, 2025, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described in this section. All other provisions of WAC 220-340-750 not addressed in this section remain in effect unless otherwise amended by emergency rule:

(1) The following areas are open for red sea urchin harvest only, seven days-per-week: Sea Urchin District 5.

(2) The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 3, District 4, District 5, District 6, and District 7.

(3) It is unlawful for any harvester to fish for, take, or possess for commercial purposes a weight of more than 1,550 pounds per species of red sea urchin and green sea urchin per license for each weekly fishery opening period. This weight shall be defined as the weight of all contents inside the harvest containers, and this weight is required to be recorded on the Fish Receiving Ticket.

REPEALER

The following section of Washington Administrative Code is repealed, effective December 22, 2025:

WAC 220-340-75000T Commercial sea urchin fisheries. (25-296)

WSR 26-01-165
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-307—Filed December 19, 2025, 4:34 p.m., effective December 22, 2025]

Effective Date of Rule: December 22, 2025.

Purpose: This emergency rule closes commercial harvest in sea cucumber Districts 1 and 2-2.

Citation of Rules Affected by this Order: Repealing WAC 220-340-73000A.

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

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

Reasons for this Finding: This emergency rule closes commercial sea cucumber harvest by returning commercial harvest to permanent rules. Remaining quotas for Districts 1 and 2-2 are expected to be taken by December 21, 2025. This action is necessary to prevent overharvest.

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

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

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

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

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

Date Adopted: December 19, 2025.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed, effective December 22, 2025:

WAC 220-340-73000A Sea cucumbers (25-284)

WSR 26-01-185
EMERGENCY RULES
DEPARTMENT OF REVENUE
[Filed December 23, 2025, 10:44 a.m., effective December 31, 2025]

Effective Date of Rule: December 31, 2025.

Purpose: The department of revenue (department) is proposing to amend WAC 458-40-540 to adjust the table of forest land values in Washington as required by RCW 84.33.140, which requires the forest land values to be adjusted annually according to the statutory formula contained in RCW 84.33.140(3). County assessors will use these published forest land values for property tax purposes in 2026.

The department is proposing to amend WAC 458-40-660 to establish stumpage value tables to inform timber harvesters of the timber values to be used to calculate the timber excise tax, in accordance with RCW 84.33.091, which requires the department to revise the stumpage value tables every six months. The values in the proposed rule will apply from January 1 to June 30, 2026.

Citation of Rules Affected by this Order: Amending WAC 458-40-540 and 458-40-660.

Statutory Authority for Adoption: RCW 82.01.060(2), 84.33.096, 84.33.091, and 84.33.140.

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: RCW 84.33.140 requires that forest land value be adjusted annually according to the statutory formula contained in RCW 84.33.140(3); the adjustment of forest land values in WAC 458-40-540 is required to be completed before December 31 of the current year in order for the forest land values to be effective from January 1 through December 31 of the immediately following calendar year. Therefore, the immediate adoption of the proposed amendments for WAC 458-40-540 is necessary to provide county assessors with the forest land values to calculate property tax in 2026.

RCW 84.33.091 requires that stumpage value tables be updated every six months. The adjustment for stumpage values for January 1 through June 30, 2026, as proposed under the amendments to WAC 458-40-660, must be completed before December 31, 2025. Therefore, the immediate adoption of the proposed amendments to WAC 458-40-660 is necessary to provide timber harvesters with correct stumpage values to calculate their timber excise tax for periods of January 1 through June 30, 2026.

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

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

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

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

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

Date Adopted: December 23, 2025.

Perry Stern
Rules Coordinator

RDS-6748.2

AMENDATORY SECTION (Amending WSR 25-01-052, filed 12/11/24, effective 1/1/25)

WAC 458-40-540 Forest land values—((~~2025~~)) 2026. The forest land values, per acre, for each grade of forest land for the ((~~2025~~)) 2026 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((~~2025~~)) 2026 VALUES PER ACRE
1	1	(($~~226~~)) $227
	2	(($~~224~~)) 225
	3	(($~~210~~)) 211
	4	(($~~153~~)) 154
2	1	(($~~193~~)) 194
	2	(($~~186~~)) 187
	3	(($~~179~~)) 180
	4	(($~~127~~)) 128
3	1	(($~~149~~)) 150
	2	(($~~145~~)) 146
	3	(($~~143~~)) 144
	4	(($~~111~~)) 112
4	1	(($~~117~~)) 118
	2	(($~~112~~)) 113
	3	(($~~111~~)) 112
	4	(($~~84~~)) 85
5	1	(($~~84~~)) 85
	2	74
	3	73
	4	52
6	1	43
	2	41
	3	41
	4	39
7	1	19
	2	19
	3	17
	4	17
8	1	1

AMENDATORY SECTION (Amending WSR 25-14-008, filed 6/23/25, effective 7/1/25)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((~~July 1 through December 31, 2025~~)) January 1 through June 30, 2026:

Washington State Department of Revenue

WESTERN WASHINGTON STUMPAGE VALUE TABLE

((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)
Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir(2)	DF	1	((~~$514~~)) $522
		2	((~~565~~)) 584
		3	((~~606~~)) 624
		4	((~~624~~)) 633
		5	((~~547~~)) 635
		9	((~~500~~)) 508
Western Hemlock and Other Conifer(3)	WH	1	((~~269~~)) 262
		2	((~~308~~)) 334
		3	((~~297~~)) 329
		4	((~~323~~)) 307
		5	((~~343~~)) 352
		9	((~~255~~)) 248
Western Redcedar(4)	RC	1-5	((~~1,047~~)) 1,050
		9	((~~1,033~~)) 1,036
Ponderosa Pine(5)	PP	1-5	((~~158~~)) 147
		9	((~~144~~)) 133
Red Alder	RA	1-5	((~~356~~)) 317
		9	((~~342~~)) 303

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Black Cottonwood	BC	1-5	1
		9	1
Other Hardwood	OH	1-5	133
		9	119
Douglas-fir Poles & Piles	DFL	1-5	((~~944~~)) 910
		9	((~~930~~)) 896
Western Redcedar Poles	RCL	1-5	((~~1,938~~)) 1,833
		9	((~~1,924~~)) 1,819
Chipwood(6)	CHW	1-5	1
		9	1
RC Shake & Shingle Blocks(7)	RCS	1-9	((~~327~~)) 352
Posts(8)	LPP	1-9	0.35
DF Christmas Trees(9)	DFX	1-9	0.25
Other Christmas Trees(9)	TFX	1-9	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.

(4) Includes Alaska-Cedar.

(5) Includes all Pines in SVA 1-5 & 9.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.

(9) Stumpage value per lineal foot.

Washington State Department of Revenue

EASTERN WASHINGTON STUMPAGE VALUE TABLE

((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)
Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir(2)	DF	6	((~~$272~~)) $273
		7	((~~286~~)) 287
Western Hemlock and Other Conifer(3)	WH	6	((~~206~~)) 180
		7	((~~220~~)) 194

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Western Redcedar[4]	RC	6	((~~1,011~~)) 1,037
		7	((~~1,025~~)) 1,051
Ponderosa Pine[5]	PP	6	((~~144~~)) 133
		7	((~~158~~)) 147
Other Hardwood	OH	6	1
		7	9
Western Redcedar Poles	RCL	6	((~~1,483~~)) 1,443
		7	((~~1,497~~)) 1,457
Chipwood[6]	CHW	6	1
		7	1
Small Logs[6]	SML	6	((~~12~~)) 11
		7	((~~14~~)) 13
RC Shake & Shingle Blocks[7]	RCS	6-7	((~~327~~)) 352
Posts[8]	LPP	6-7	0.35
DF Christmas Trees[9]	DFX	6-7	0.25
Other Christmas Trees[9]	TFX	6-7	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, and Lodgepole Pine in SVA 6-7, or any other conifer not listed on this table.

(4) Includes Alaska-Cedar.

(5) Includes Western White Pine in SVA 6-7.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.

(9) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50 percent) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition

adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.,) over two acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((~~July 1 through December 31, 2025~~)) January 1 through June 30, 2026:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 9
((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled equipment or draft animals.	$0.00
Class 2	Logging a majority of the unit: Using an overhead system of winch-driven cables and/or logging on slopes greater than 45% using tracked or wheeled equipment supported by winch-driven cables.	-$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-$200.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
III. Remote island adjustment:		
	For timber harvested from a remote island	-$50.00
IV. Thinning		
	A limited removal of timber described in WAC 458-40-610 (29)	-$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-$85.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-$200.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-$50.00
IV. Thinning		
	A limited removal of timber described in WAC 458-40-610 (29)	-$60.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
	SVAs 1 through 5 only:	$0.00
Note:	This adjustment only applies to published MBF sawlog values.	

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the de-

partment of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a $0/ton stumpage value.

WSR 26-01-186
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-309—Filed December 23, 2025, 12:33 p.m., effective January 1, 2026]

Effective Date of Rule: January 1, 2026.

Purpose: This emergency rule adjusts the 2026 opening dates for recreational clam, mussel, and oyster harvest at Fort Flagler State Park, Indian Island County Park/Lagoon Beach, Isthmus Beach (Indian Island County Park), Port Townsend Ship Canal, Purdy Spit, Quilcene Boat Ramp, Point Whitney Tidelands and Point Whitney Lagoon, Penrose State Park, Shine Tidelands, and Wolfe Property State Park beaches.

Citation of Rules Affected by this Order: Amending WAC 220-330-110 and 220-330-140.

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 rules are needed to modify recreational clam, mussel, and oyster harvesting opportunities to satisfy comanagement obligations, ensure an orderly fishery, and meet conservation objectives at 10 beaches that would otherwise open under existing permanent rule before proposed 2026 seasons rules are effective. Immediate adoption is necessary for the preservation of public health, safety, or general welfare. Permanent rule making for 2026 annual recreational clam, mussel, and oyster seasons is underway (WSR 25-21-145, filed October 22, 2025), but the anticipated effective date of the proposed rules won't occur until March or April, 2026. This rule must be filed to effect changes on some beaches ahead of that anticipated effective date and to satisfy comanagement obligations, ensure an orderly fishery, and meet conservation objectives for these beaches. Annual seasons for 2026 will be announced following the permanent rule-making process.

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

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

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

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

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

Date Adopted: December 23, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-11000T Clams other than razor clams, mussels—Areas and seasons. Notwithstanding the provisions of WAC 220-330-110, effective January 1, 2026, until further notice, the following provisions of WAC 220-330-110 clam and mussel seasons shall be as described in this section. All other provisions not addressed in this section, unless otherwise amended by emergency rule, remain in effect:

(1) Fort Flagler State Park: Closed, effective January 15, 2026 until further notice.

(2) Indian Island County Park/Lagoon Beach: Closed, until further notice.

(3) Indian Island County Park/Isthmus Beach: Closed, until further notice.

(4) Penrose Point State Park: Closed, until further notice.

(5) Point Whitney Tidelands and Point Whitney Lagoon: Closed January 1 through January 14; open January 15 until further notice.

(6) Port Townsend Ship Canal/Portage Beach: Closed, until further notice.

(7) Purdy Spit: Closed, until further notice.

(8) Quilcene Boat Ramp: Closed January 1 through January 14; open January 15 until further notice.

(9) Shine Tidelands State Park: Closed January 1 through January 14; open January 15 until further notice.

(10) Wolfe Property State Park: Closed January 1 through January 14; open January 15 until further notice.

NEW SECTION

WAC 220-330-14000Q Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-330-140, effective January 1, 2026, until further notice, the following provisions of WAC 220-330-140 oyster seasons shall be as described in this section. All other provisions of WAC 220-330-140 not addressed this section, unless otherwise amended by emergency rule, remain in effect:

(1) Fort Flagler State Park: Closed, January 15, 2026 until further notice.

(2) Indian Island County Park/Lagoon Beach: Closed, until further notice.

(3) Indian Island County Park/Isthmus Beach: Closed, until further notice.

(4) Penrose Point State Park: Closed, until further notice.

(5) Point Whitney Tidelands and Point Whitney Lagoon: Closed January 1 through January 14; open January 15 until further notice.

(6) Port Townsend Ship Canal/Portage Beach: Closed, until further notice.

(7) Purdy Spit: Closed, until further notice.

(8) Quilcene Boat Ramp: Closed January 1 through January 14; open January 15 until further notice.

(9) Shine Tidelands State Park: Closed January 1 through January 14; open January 15 until further notice.

(10) Wolfe Property State Park: Closed January 1 through January 14; open January 15 until further notice.

WSR 26-01-189
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed December 23, 2025, 2:39 p.m., effective December 27, 2025]

Effective Date of Rule: December 27, 2025.

Purpose: The department of social and health services (department) is extending emergency amendments to WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? These amendments are necessary to comply with the approved federal waiver for the elderly simplified application project (ESAP), requiring periodic reviews every six months for the remaining months of the 36-month certification period when ESAP eligibility is lost due to a change of circumstance.

Citation of Rules Affected by this Order: Amending WAC 388-418-0011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.902.

Other Authority: United States Department of Agriculture, Food and Nutrition Services (waiver approval).

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: This rule is necessary to comply with provisions of the federal ESAP waiver, to coincide with automation updates supporting this change. The department is concurrently proceeding with the permanent rule-making process and has filed a CR-103P under WSR 25-24-102 on December 3, 2025, which will supersede this emergency when the CR-103P becomes effective.

Also refer to: CR-103E filed on August 29, 2025, under WSR 25-18-084; CR-101 filed on August 29, 2025, under WSR 25-18-085; and CR-102 filed on October 20, 2025, under WSR 25-21-119.

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

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

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

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

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

Date Adopted: December 8, 2025.

Katherine I. Vasquez
Rules Coordinator

SHS-5104.2

AMENDATORY SECTION (Amending WSR 24-13-020, filed 6/6/24, effective 7/7/24)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances during your certification period. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or basic food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Receive refugee cash assistance as described under WAC 388-400-0030;

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060;

(iii) Receive a referral to the housing and essential needs (HEN) program as described under WAC 388-400-0070; or

(iv) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) Your assistance unit consists only of elderly or disabled adults, or qualifies for the elderly simplified application project (ESAP), and does not have earned income.

(3) **When we send the review form:**

If you must complete a MCR ...	We send your review form ...
(a) For one program such as basic food.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) If you are no longer eligible for ESAP but remain eligible for basic food for the remainder of a 36-month certification period converted from an ESAP certification.	Every six months for the remainder of your 36-month certification period. This could include reviews sent in ((~~In~~)) the fifth, 11th, 17th, 23rd, and ((~~23rd~~)) 29th months of your certification period when ((~~your certification period has~~)) there are more than ((~~13~~)) six months remaining ((~~of~~)) in the 36-month certification period. You must complete your review by the 10th day of the ((~~12th~~)) following month, and every six months, ((~~or~~)) for the ((~~24th month or both~~)) remainder of the certification period.
(c) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.

If you must complete a MCR ...	We send your review form ...
(d) For basic food and another program when either program has a certification or review period between six and 12 months.	In the fifth month of your basic food certification period when you receive basic food and another program. You must complete your review by the 10th day of month six of your basic food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review form online, or in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you 10 days' notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

WSR 26-01-197
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-311—Filed December 23, 2025, 3:32 p.m., effective December 23, 2025, 3:32 p.m.]

Effective Date of Rule: Immediately upon filing.

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

WAC 220-340-45500H: (1) Closes the Everett Flats CSMA (WAC 220-320-120(3)) to commercial crab harvest on December 31, 2025; and (2) closes Port Angeles Harbor to commercial crab harvest due to public health decrees.

WAC 220-340-47000G: (1) Increases the pot limit in Region 2E effective December 24, 2025; and (2) sets reduced pot limits by area for Puget Sound commercial crab harvest effective the dates listed in the amended WAC 220-340-455.

Closes the Everett Flats CSMA (WAC 220-320-120(3)) to commercial crab harvest effective one hour after official sunset on December 31, 2025. Increases the pot limits in Region 2E to 25 pots per license effective December 24, 2025. There is sufficient allocation remaining to allow continued harvest in the Puget Sound commercial crab fishery in Regions 2E, 3-2, 3-3, and 3-4 until further notice. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500G and 220-340-47000F; and amending WAC 220-340-455 and 220-340-470.

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

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

Reasons for this Finding: The state has remaining share to catch after accounting for recreational seasons in Regions 2E, 2W, 3-1, 3-2, 3-3, and 3-4. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, 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: December 23, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500H Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455; effective immediately, until further notice:

Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. Harvest for these areas is permitted starting one hour before official sunrise until further notice, unless otherwise indicated below. Any closures take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Closed.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Closed.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until further notice.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Immediately, until December 31, 2025.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Subregion 3-1	Closed.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately, until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed.
Subregion 3-3	Immediately, until further notice.
Subregion 3-4	Immediately, until further notice.

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

NEW SECTION

WAC 220-340-47000G Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas Notwithstanding the provisions of 220-340-470, effective immediately, until further notice:

Effective one hour before official sunrise on December 24, 2025, it is unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	0
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	0
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	25
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	20
Subregion 3-1	25
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	60
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-340-45500G	Commercial crab fishery—Seasons and areas—Puget Sound. (25-302)
WAC 220-340-47000F	Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (25-302)

WSR 26-01-201
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-310—Filed December 23, 2025, 4:15 p.m., effective December 31, 2025]

Effective Date of Rule: December 31, 2025.

Purpose: The purpose of this emergency rule is to open razor clam harvest in Areas 1, 3, 4, and 5.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000Q; and amending WAC 220-340-160.

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

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

Reasons for this Finding: Survey results show that adequate clams are available in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 23, 2025.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective December 31, 2025 through January 6, 2026, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	December 31, 2025 through January 6, 2026	From 12:01 p.m. to 11:59 p.m.

Razor Clam Area	Date	Time
Area 2	Closed	Closed
Area 3	December 31, 2025 through January 6, 2026	From 12:01 p.m. to 11:59 p.m.
Area 4	December 31, 2025 January 1, 4 and 5, 2026	From 12:01 p.m. to 11:59 p.m.
Area 5	January 2, 3, and 6, 2026	From 12:01 p.m. to 11:59 p.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective January 7, 2026:

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

WSR 26-01-202
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 25-312—Filed December 23, 2025, 5:12 p.m., effective December 28, 2025]

Effective Date of Rule: December 28, 2025.

Purpose: The purpose of this emergency rule is to amend commercial crab fishing in coastal waters.

Citation of Rules Affected by this Order: Amending WAC 220-340-420, 220-340-430, and 220-340-450.

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 state season opening dates are based on decisions made by west coast managers according to the provisions of the tri-state Dungeness crab preseason testing protocols and measures described in state-tribal harvest management agreements and discussions with comanagers. Pot limits will reduce fishing effort and ease crowding at the start of the season. Stepped opening periods/areas will also provide for fair start provisions. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 23, 2025.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000I Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420, effective immediately until further notice:

(1) It is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean from any vessel, unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel and;

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings until further notice.

(2) Effective 8:00 a.m. December 28, 2025, until 8:00 a.m. January 1, 2026, it is unlawful for persons participating in the Washington coastal, Columbia River, or Willapa Bay commercial Dungeness crab fishery to:

(a) Deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal commercial crab fishery license held by that person is 500.

(b) Deploy or operate more than 250 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness crab fishery license held by that person is 300.

(c) Fail to maintain on board any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

(d) Store or possess crab pots on board any participating vessel in excess of the vessels pot limit.

(e) Load pots with buoy tags attached in excess of the pot limits described with this section more than 48-hours prior to pot limits being lifted.

(3) It is unlawful to possess or deliver Dungeness crab unless the following conditions are met:

(a) Vessels that participate in the Dungeness crab fishery south of Cape Falcon, Oregon (45°46.00 N. Lat.) may not deliver crab north of the Columbia River except into the ports of Ilwaco and Chinook until 9:00 a.m. December 31, 2025. Such vessels must adhere to the Oregon Department of Fish and Wildlife closed area transit allowance requirements.

(b) Vessels that participated in the coastal Dungeness crab fishery from Klipsan Beach (46°28.00 North Latitude) to OR/CA Border, including Willapa Bay and the Columbia River, may possess crab for delivery into Washington ports south of 47°00.00 N. Lat., provided the crab were taken south of Klipsan (46°28.00 N. Lat.).

(4) It is unlawful for a vessel not designated on a coastal Dungeness crab fishery license to deploy crab pot gear except under the following conditions:

(a) The vessel deploys pot gear only during the 73-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date;

(b) The undesignated vessel carries no more than 250 crab pots at any one time; and

(c) The primary or alternate operator of the crab pot gear named on the license associated with the gear is on board the undesignated vessel while the gear is being deployed.

(5) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.500 Commercial fishing without a license—Penalty, depending on the circumstances of the violation.

(6) All other provisions of the permanent rule remain in effect.

NEW SECTION

WAC 220-340-43000D Commercial crab fishery—Gear requirements. Effective immediately, until further notice, provisions of WAC 220-340-430 regarding the allowable distance of line connecting main (diver) buoys to the last trailer buoy for coastal commercial Dungeness crab fishery surface gear are modified as described in this section. All other provisions of WAC 220-340-430, not addressed in this section, remain in effect unless altered by emergency rule:

The maximum distance of the line connecting the main (diver) buoy to the last trailer buoy must not exceed 36 feet, unless the vessel is operating under the exemption provided under this subsection. Vessel operators and alternate operators, as outlined in RCW 77.65.130, may request a surface gear length exemption permit from the department prior to the commencement of fishing for a demonstrated safety risk. An exemption is only authorized for the period specified on the permit, for the surface gear length specified on the permit, and the fishing area and depth specified on the permit. Requests for exemption permits will be evaluated by the department on a case-by-case basis and granted at the department's discretion. Failure to adhere to the provisions of the permit is a gross misdemeanor, punishable under RCW 77.15.750 Unlawful use of a department permit—Penalty.

NEW SECTION

WAC 220-340-45000Z Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450 effective immediately until further notice: it is unlawful to fish for Dungeness crab in Washington coastal waters, including Willapa Bay, or the Columbia River, except as provided in this section.

(1) Open area: The area from Klipsan Beach, Washington (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay.

(a) For the purposes of this section, the waters of Willapa Bay include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(b) It is permissible to set crab gear beginning at 8:00 a.m., December 28, 2025.

(c) It is permissible to pull crab gear beginning at 9:00 a.m., December 31, 2025.

(d) Licenses and vessels designated to those licenses that fish in the coastal commercial Dungeness crab fishery in the waters between CA/OR border and Cape Falcon, Oregon (45°46.00) before the area between WA/OR border to Oysterville (46°33.00) opens will not be allowed to fish in this area until 9:00 am on January 30, 2026.

(e) Licenses and vessels designated to those licenses that participate in the coastal commercial Dungeness crab fishery in the waters from Cape Falcon, Oregon (45°46.00) to Klipsan Beach, Washington (46°28.00), including Willapa Bay, before the area north of Klipsan Beach (46°28.00) opens, are prohibited from fishing in the following areas for the durations specified:

i. The waters between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 9:00 a.m. January 14, 2026; and

ii. The waters between Oysterville (46°33.00) and the Destruction Island (47°40.50) until 9:00 a.m. February 8, 2026.

(2) Open area: The area from Klipsan Beach (46°28.00) to Destruction Island (47°40.50), including Grays Harbor.

(a) It is permissible to set crab gear beginning at 8:00 a.m., January 1, 2026.

(b) It is permissible to pull crab gear beginning at 9:00 a.m., January 4, 2026.

(3) The Quinault primary special management area (PSMA) is closed to fishing for Dungeness crab until further notice. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:

Northeast Corner (Raft River): 47°28.00 N. Lat. 124°20.70 W. Lon.

Northwest Corner: 47°28.00 N. Lat. 124°34.00 W. Lon.

Southwest Corner: 47°08.00 N. Lat. 124°25.50 W. Lon.

Southeast Corner (Copalis River): 47°08.00 N. Lat. 124°11.20 W. Lon.

All other provisions of the permanent rule remain in effect.