

WSR 22-10-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-58—Filed April 20, 2022, 5:22 p.m., effective April 20, 2022, 5:22 p.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

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

Reasons for this Finding: Modifies the 2022 spring select area commercial seasons. Through April 19, 2022, select area harvest of up-river spring Chinook exceeded the preseason expectation for this time frame. Areas and season dates were adjusted to minimize additional impacts to nonlocal stocks while allowing harvest of local Chinook stocks reared for the select area sites. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of February 15 and April 20, 2022. This harvest opportunity allows for public access to the resource as well as the maintenance of sustainable fish populations. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish, and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisheries as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

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

Columbia River nontreaty fisheries are monitored very closely to ensure compliance with federal court orders, the ESA, and commission guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. Representatives from the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and take public testimony when considering proposals for new emergency rules. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

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

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

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

Date Adopted: April 20, 2022.

Kelly Susewind
Director

NEW SECTION

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

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

(1) Tongue Point and South Channel areas:

| Open_Dates | Open_Days | Open_Time | Open_Duration |
|--------------------|---------------------------|----------------------|---------------|
| May 11 - Jun 14 | Mon, Wed, Thu (nights) | 7:00 pm - 7:00 am | 15 nights |

South Channel Area only:

| Open_Dates | Open_Days | Open_Time | Open_Duration |
|------------|---------------|----------------------|---------------|
| May 10 | Tue (morning) | 2:30 am - 6:30 am | 4 hrs |

(a) Area definitions:

(i) May 10 through June 14, 2022:

(A) Tongue Point: Area as described in OAR 635-042-0170 (1)(a) and WAC 220-301-010 (11)(c). If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a

line projecting from a point (46°12'31.1" N latitude 123°45'34.0" W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

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

(b) Gear: Gillnets:

(i) May 10 through June 14, 2022: 9 3/4-inch maximum mesh size.

(ii) The maximum net length is 1,500 feet (250 fathoms).

(iii) In the Tongue Point Area, the lead line weight may not exceed two pounds per any one fathom.

(iv) In the South Channel Area, there is no lead line weight limit and attachment of additional weight and anchors directly to the lead line is permitted.

(2) Blind Slough and Knappa Slough areas:

| Open_Dates | Open_Days | Open_Time | Open_Duration |
|-----------------|------------------------|-------------------|---------------|
| May 11 - Jun 14 | Mon, Wed, Thu (nights) | 7:00 pm - 7:00 am | 15 nights |

Knappa Slough Area only:

| Open_Dates | Open_Days | Open_Time | Open_Duration |
|------------|---------------|-------------------|---------------|
| May 10 | Tue (morning) | 3:30 am - 7:30 am | 4 hrs |

(a) Areas:

(i) The Blind Slough Select Area is defined as waters of Blind Slough and Gnat Creek from a north-south line represented by regulatory markers at the mouth of Blind Slough upstream to a regulatory marker in Gnat Creek located approximately 0.5 miles southeasterly (upstream) of the Barendse Road Bridge.

(ii) The Knappa Slough Select Area is defined as waters of Knappa Slough, Calendar Slough, and Big Creek Slough bounded to the north (upstream) by a line projecting from a regulatory marker on the eastern shore of Karlson Island to the northernmost regulatory marker at the mouth of Blind Slough and bounded to the west (downstream) by a line projecting southerly from a regulatory marker on the southwestern tip of Karlson Island through regulatory markers on the western tips of Minaker Island to a marker on the Oregon shore.

The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed.

(b) Gear: Gillnets:

(i) May 10 through June 14, 2022: 9 3/4-inch maximum mesh size.

(ii) The maximum net length is 600 feet (100 fathoms).

(iii) There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(c) Miscellaneous:

Permanent transportation rules in effect. In accordance with WACs 220-352-040 (1)(i) and 220-301-010 (11)(a-b), commercial fishers are expected, and fish dealers are required, to report landings for winter-summer fisheries in Knappa Slough and Blind Slough separately using appropriate zone codes. Fish dealers are requested to keep landings from these two sites separate to aid in sampling.

(3) Deep River Select Area:

| Open_Dates | Open_Days | Open_Time | Open_Duration |
|-----------------|------------------------|-------------------|---------------|
| Apr 21 - Apr 29 | Mon, Thu (nights) | 7:00 pm - 7:00 am | 3 nights |
| May 2 - Jun 14 | Mon, Wed, Thu (nights) | 7:00 pm - 7:00 am | 19 nights |

(a) Area:

From the mouth of Deep River defined as a line from USCG navigation marker #16 southwest to a marker on the Washington shore, upstream to the Highway 4 Bridge.

(b) Gear: Gillnets:

(i) Immediately through June 14, 2022: 9 3/4-inch maximum mesh size.

(ii) The maximum net length is 600 feet (100 fathoms).

(iii) There is no lead line weight limit and attachment of additional weight or anchors directly to the lead line is permitted.

(iv) Nets may not fully cross navigation channel. It is unlawful to operate in any river, stream, or channel any net longer than three-fourths the width of the stream (WAC 220-354-010(1)). It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of nets, whether fishing singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided by department rule (WAC 220-353-060(1)).

(c) Miscellaneous:

(i) Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by WDFW staff.

(ii) Immediately through April 15, 2022: fishers are required to call 360-846-5268 or 360-795-0319 to confirm the place and time of sampling.

(iii) April 18 through June 14, 2022: a sampling station will be established at WDFW's Oneida Road boat ramp, about 0.5 miles upstream of the Deep River area downstream boundary (USCG navigation marker #16).

(4) Allowable Sales: Salmon (except Chum) and shad.

(5) 24-hour quick reporting is in effect for Washington buyers (WAC 220-352-315). Permanent transportation rules in effect. Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210. Unique catch reporting codes have been established for Blind Slough and Knappa Slough to facilitate separation of landings and sampling for winter/spring fisheries. Blind Slough and Knappa Slough have unique catch reporting codes to facilitate separation of landings and sampling for winter/spring fisheries.

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

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

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-358-03000I Columbia River below Bonneville Dam.
(22-30)

WSR 22-10-007

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed April 22, 2022, 7:57 a.m., effective April 22, 2022, 7:57 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

Reasons for this Finding: COVID-19 continues as an ongoing and present threat in Washington with continuing existence of COVID-19 cases and hospitalizations, primarily among unvaccinated populations but also in breakthrough infections in some fully vaccinated individuals. Though some governor proclamations and associated health orders may change or lessen in scope over the course of the disease activity in Washington state, there continue to be requirements (such as vaccinations, use of personal protective equipment, and masking) for health care providers, and for patients and visitors to health care settings, including licensed health care facilities. Clarifying the applicability of state and federal statutes, administrative rules, lawful orders, and other legal requirements to licensed health care facilities will assist facilities to comply with these requirements and will assist the department in its efforts to ensure the health and safety of the workers, recipients of services, and visitors in those facilities.

The extension of this emergency rule and the clarity it brings to licensed health care facilities is necessary for the preservation of public health, safety, and general welfare. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests.

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

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

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

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

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

Date Adopted: April 20, 2022.

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

OTS-3389.3

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

NEW SECTION

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

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

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

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WSR 22-10-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-61—Filed April 22, 2022, 3:12 p.m., effective April 29, 2022]

Effective Date of Rule: April 29, 2022.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons and to increase daily limits to 20 clams during open periods. This rule will also extend the open period by one hour on beaches open on May 7 to accommodate a tide change near the usual closing time of 11:59 p.m.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000N and 220-330-01000W; and amending WAC 220-330-160 and 220-330-010.

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

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. An exceptionally large population of harvestable razor clams in Razor Clam Areas 1, 3, 4, and 5 allow for a temporary increase in the daily bag limit. Washington department of health has certified clams from these razor clam areas to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 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: April 22, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000N 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 April 29 through May 7, 2022:

From 12:01 a.m. April 29 through 11:59 a.m. May 6, 2022, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during morning tides on dates and times listed below, and it is permissible to dig from 12:01 a.m. through 12:59 p.m. in Razor Clam Areas 1, 3, and 4 on May 7, 2022 only:

| Razor Clam Area | Date | Time |
|-----------------|-----------------------------------|-------------------------------|
| Area 1 | April 29 through May 6 | From 12:01 a.m. to 11:59 p.m. |
| | May 7 | From 12:01 a.m. to 12:59 p.m. |
| Area 2 | Closed | Closed |
| Area 3 | April 29 through May 6 | From 12:01 a.m. to 11:59 a.m. |
| | May 7 | From 12:01 a.m. to 12:59 p.m. |
| Area 4 | April 29, May 1, May 3, and May 5 | From 12:01 a.m. to 11:59 a.m. |
| | May 7 | From 12:01 a.m. to 12:59 p.m. |
| Area 5 | April 30, May 2, May 4 and May 6 | From 12:01 a.m. to 11:59 a.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.

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NEW SECTION

WAC 220-330-01000W Shellfish—Daily limits, size restrictions, and unlawful acts. Notwithstanding the provisions of WAC 220-330-010 regarding Razor clam daily limits, effective 12:01 a.m. April 29, through 12:59 p.m. May 7, 2022, the daily limit is 20 razor clams for personal use in any one day from Razor Clam Area 1, Razor Clam Area 3, Razor Clam Area 4, and Razor Clam Area 5. All other provisions of WAC 220-330-010 not addressed herein remain in effect unless otherwise amended by emergency rule.

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REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. May 8, 2022:

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

WAC 220-330-01000W Shellfish—Daily limits, size restrictions, and unlawful acts.

WSR 22-10-012
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-57—Filed April 22, 2022, 3:16 p.m., effective May 1, 2022]

Effective Date of Rule: May 1, 2022.

Purpose: The purpose of this emergency rule is to set coastal commercial salmon troll seasons for 2022.

Citation of Rules Affected by this Order: Amending WAC 220-354-300.

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

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

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

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 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: April 22, 2022.

Kelly Susewind
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050 and WAC 220-354-010, effective May 1, 2022, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons and under conditions provided below:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open: May 1 through June 29, 2022.

(2) Grays Harbor Control Zone, defined by a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long.); thence to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.); thence to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.); thence to the Grays Harbor north jetty (46°55'36" N. lat., 124°10'51" W. long.), open: May 1 through June 29, 2022.

(3) In Washington Catch Reporting Areas 1, 3 and 4, landing and possession limit of 80 Chinook per vessel per landing week, defined as Thursday through Wednesday.

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

(5) Minimum size for Chinook salmon is 27 inches in length (20 1/2 inches frozen dressed). No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

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

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

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

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

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

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

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

(a) Vessels in possession of salmon south of the Queets River may not cross the Queets River line (47°31'42" N. lat.) without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook, coho, and halibut catch aboard and destination.

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

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

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WSR 22-10-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-60—Filed April 22, 2022, 4:49 p.m., effective May 1, 2022]

Effective Date of Rule: May 1, 2022.

Purpose: The purpose of this emergency rule is to return coastal tributaries and the Hoko River, previously closed by emergency rule, to permanent rules.

Citation of Rules Affected by this Order: Repealing WAC 220-312-02000S.

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

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

Reasons for this Finding: This rule returns coastal tributaries and the Hoko River to permanent rules, therefore implementing sport harvest opportunity for hatchery spring Chinook as agreed to under the 2022 comanagement harvest agreement for spring and summer salmon fisheries in the Quillayute River system.

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: April 22, 2022.

Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed effective May 1, 2022:

WAC 220-312-02000S Freshwater exceptions to statewide rules—Coast. (21-23)

WSR 22-10-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-62—Filed April 25, 2022, 9:44 a.m., effective May 1, 2022]

Effective Date of Rule: May 1, 2022.

Purpose: The purpose of this emergency rule is to open hatchery Chinook salmon seasons in a portion of the Skagit 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 rule is necessary to open salmon seasons in the Skagit River as agreed to with comanagers during the 2022 North of Falcon proceedings. Harvestable numbers of hatchery spring Chinook are forecast to return to Marblemount Hatchery. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a 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: April 25, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000A Freshwater exceptions to statewide rules—Puget Sound. Effective May 1, through May 31, 2022 the following provisions of WAC 220-312-040 regarding salmon seasons for the Skagit River from the Hwy. 536 Bridge in Mt. Vernon to Gilligan Creek, shall be as described below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

Skagit River (Skagit Co.): From the Hwy. 536 (Memorial Hwy.) Bridge in Mt. Vernon to Gilligan Creek: Salmon:

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

(b) Night Closure in effect.

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WSR 22-10-036
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Filed April 27, 2022, 10:43 p.m., effective April 27, 2022, 10:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority (HCA) is amending WAC 182-531-1400 to implement changes directed by the legislature in 2SHB 1325, section (2)(11), chapter 126, Laws of 2021. For mental health diagnostic assessment of children birth through age five, HCA is directed to reimburse providers for up to five sessions per assessment and for travel costs when a session is conducted in a home or community setting.

Citation of Rules Affected by this Order: Amending WAC 182-531-1400.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; and 2SHB 1325, section (2)(11), chapter 126, Laws of 2021.

Other Authority: Not applicable.

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

Reasons for this Finding: Approximately 9.5 - 14.2 percent of children birth to age five experience emotional, relational, or behavioral disturbance. Considering the impending statewide increase in behavioral health impacts and expected increase in child abuse occurrences resulting from the COVID-19 pandemic, it is urgent that the mental health system have developmentally appropriate assessment, diagnosis, and treatment protocols with flexibility to support families where they are in communities to ensure equitable, adequate care and to prevent long-term social-emotional health impacts to Washington's youngest children. The implementation of policy changes directed by 2SHB 1325, section (2)(11), chapter 126, Laws of 2021, is critical to supporting a developmentally appropriate mental health system.

This emergency filing replaces the emergency rules filed under WSR 22-02-035 on December 29, 2021. The agency is refiling to continue the emergency rule while proceeding through the permanent rule-making process. Since filing the last emergency filing, the agency completed the stakeholder review, filed the CR-102 (Proposed rule making) under WSR 22-07-090 on March 22, 2022, and held a public hearing on April 26, 2022. The agency is now reviewing the public hearing comments submitted by stakeholders and anticipates filing the final Rule-making order (CR-103P) soon.

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

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

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

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

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

Date Adopted: April 27, 2022.

Wendy Barcus
Rules Coordinator

OTS-3531.2

AMENDATORY SECTION (Amending WSR 19-15-107, filed 7/22/19, effective 8/22/19)

WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services. (1) The mental health services covered in this section are different from the mental health services covered under community mental health and involuntary treatment programs in chapter 182-538D WAC.

(2) Inpatient and outpatient mental health services not covered under chapter 182-538D WAC may be covered by the agency under this section.

Inpatient mental health services

(3) For hospital inpatient psychiatric admissions, providers must comply with chapter 182-538D WAC.

(4) The agency covers professional inpatient mental health services as follows:

(a) When provided by a psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric mental health nurse practitioner-board certified (PMHNP-BC), or psychologist in conjunction with the prescribing provider;

(b) The agency pays only for the total time spent on direct psychiatric client care during each visit, including services provided when making rounds. The agency considers services provided during rounds to be direct client care services and may include, but are not limited to:

(i) Individual psychotherapy up to one hour;

(ii) Family/group therapy; or

(iii) Electroconvulsive therapy.

(c) One electroconvulsive therapy or narcosynthesis per client, per day, and only when performed by a psychiatrist.

Outpatient mental health services

(5) The agency covers outpatient mental health services when provided by the following licensed health care professionals who are eligible providers under chapter 182-502 WAC:

(a) Psychiatrists;

(b) Psychologists;

(c) Psychiatric advanced registered nurse practitioners (ARNP);

(d) Psychiatric mental health nurse practitioners-board certified (PMHNP-BC);

(e) Mental health counselors;

(f) Independent clinical social workers;

- (g) Advanced social workers; or
- (h) Marriage and family therapists.

(6) With the exception of licensed psychiatrists and psychologists, qualified health care professionals who treat clients age ~~((eighteen))~~ 18 and younger must:

(a) Have a minimum of ~~((one hundred))~~ 100 actual hours of specialized study of child development and treatment and a minimum of one year of supervised experience in the diagnosis and treatment of clients age ~~((eighteen))~~ 18 and younger; or

(b) Be working under supervision of a professional who meets these criteria.

(7) The agency does not limit the total number of outpatient mental health visits a licensed health care professional can provide.

(8) The agency evaluates a request for covered outpatient mental health services in excess of the limitations in this section under WAC 182-501-0169. The agency covers outpatient mental health services with the following limitations:

(a) One psychiatric diagnostic evaluation, per provider, per client, per calendar year, unless significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the agency. For the purposes of this section, psychiatric diagnostic evaluation means the same as assessment (see WAC 182-538D-0200). When the psychiatric diagnostic evaluation is administered to a client from birth through age five, the agency allows the following as funding is available:

(i) Up to five sessions to complete a psychiatric diagnostic evaluation, if necessary; and

(ii) Evaluations in the home or community setting, including reimbursement for provider travel.

(b) One or more individual or family/group psychotherapy visits, with or without the client, per day, per client, when medically necessary.

(c) One psychiatric medication management service, per client, per day, in an outpatient setting when performed by one of the following:

(i) Psychiatrist;

(ii) Psychiatric advanced registered nurse practitioner (ARNP);

or

(iii) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC).

(9) To receive payment for providing mental health services, providers must bill the agency using the agency's published billing instructions.

[Statutory Authority: RCW 41.05.021, 41.05.16 [41.05.160], and 2017 c 226. WSR 19-15-107, § 182-531-1400, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 41.05.021, 41.05.160, 2014 c 225. WSR 16-06-053, § 182-531-1400, filed 2/24/16, effective 4/1/16. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 15-03-041, § 182-531-1400, filed 1/12/15, effective 2/12/15. WSR 11-14-075, recodified as § 182-531-1400, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.09.521. WSR 08-12-030, § 388-531-1400, filed 5/29/08, effective 7/1/08. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 01-01-012, § 388-531-1400, filed 12/6/00, effective 1/6/01.]

WSR 22-10-038
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 27, 2022, 11:05 a.m., effective April 27, 2022, 11:05 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is extending emergency adoption of WAC 388-434-0015 Waiver of mid-certification reviews during the COVID-19 pandemic, to continue Federal Supplemental Nutrition Assistance Program flexibilities regarding mid-certification reviews as allowed under Families First Coronavirus Response Act (H.R. 6201) and extended via the Continuing Appropriations Act (H.R. 8337).

This filing supersedes previous emergency adoption filed as WSR 22-03-045 on January 12, 2022.

The department filed notice of its intent to adopt the rule as permanent via CR-101 under WSR 22-10-008 and is actively pursuing permanent rule making.

Citation of Rules Affected by this Order: New WAC 388-434-0015.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, and 74.08A.120.

Other Authority: H.R. 6201 and 8337.

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

Reasons for this Finding: This rule is necessary to continue implementing provisions of Section 2301 of the Families First Coronavirus Response Act (H.R. 6201) and related flexibilities available through federal Food and Nutrition Service waiver approval.

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

Date Adopted: April 25, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4805.6

NEW SECTION

WAC 388-434-0015 Waiver of mid-certification reviews during the COVID-19 pandemic. (1) Mid-certification review requirements for cash and food assistance under WAC 388-418-0011 are waived from January 1, 2022, to June 30, 2022.

(2) You are still required to report changes under WAC 388-418-0005.

(3) The department will review and act upon any new information we receive from you during this time under WAC 388-418-0020.

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WSR 22-10-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-64—Filed April 28, 2022, 1:53 p.m., effective April 29, 2022]

Effective Date of Rule: April 29, 2022.

Purpose: The purpose of this emergency rule is to open commercial spot and nonspot shrimp fisheries in Puget Sound.

Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require adoption of harvest seasons contained in this emergency rule. This emergency rule:

WAC 220-340-52000S:

1. Clarifies the pot limit for shrimp pot fisheries is specific to each gear type and allows a separate maximum 100 pot limit for spot shrimp pots and nonspot shrimp pots respectively.

2. Opens spot shrimp quota areas, defines the first spot shrimp catch accounting period as being from May 1 to August 2, 2022, and allows 4,500 pounds of spot shrimp to be harvested per license for the first catch accounting period.

3. Opens nonspot shrimp quota areas, defines the nonspot shrimp catch accounting week, sets a weekly per license catch limit of 700 pounds, in Subregions 1A, 1B, 1C, and Region 2E, clarifies there is no weekly harvest limit in Regions 3 or 2W, and sets a 175 foot depth limit in Subregion 1A and Subarea 23A East.

WAC 220-340-54000A:

1. Opens Region 3 shrimp trawl fisheries on May 1, 2022. Opens Region 1 trawl fisheries as required by permanent rule.

Citation of Rules Affected by this Order: Amending WAC 220-340-520 and 220-340-540.

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 emergency regulation is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound. This rule allows harvesters to both respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with co-manager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 28, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000S Commercial shrimp pot fishery—Puget Sound.

Notwithstanding the provisions of WAC 220-340-520, effective one hour before official sunrise on April 29, 2021, until further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful to fish for shrimp for commercial purposes using pot gear in Puget Sound except as provided for in this section:

(1) In all areas fishers are limited to a maximum of 100 spot shrimp pots, as defined in WAC 220-340-520 (5)d, and a maximum of 100 non-spot shrimp pots, as defined in WAC 220-340-520 (5)e.

(2) Spot Shrimp Pot Harvests:

(a) Spot shrimp harvest is permitted as indicated in the following table starting one hour before official sunrise until further notice.

| Geographical Management Unit (WAC 220-320-140) | Status | Opening Date |
|--|---------------|---------------------|
| Subregion 1A | Open | 5/1/2022 |
| Subregion 1B | Closed | |
| Subregion 1C | Open | 5/1/2022 |
| Region 2E | Closed | |
| Region 2W | Closed | |
| Subarea 23A-E | Open | 5/1/2022 |
| Subarea 23A-W | Open | 5/1/2022 |
| Subarea 23A-C and MSFS Catch Area 23B | Open | 5/1/2022 |
| Subarea 23A-S and MSFS Catch Area 23D | Open | 5/1/2022 |
| MFSF Catch Area 23C | Open | 5/1/2022 |
| MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District | Open | 5/1/2022 |
| Discovery Bay Shrimp District | Closed | |
| MFSF 29 (Straits - Neah Bay) | Open | 5/1/2022 |
| Subarea 26B-1 and MFSF Catch Area 26C | Closed | |
| Subarea 26B-2 | Closed | |
| Region 5 | Closed | |
| MFSF Catch Area 26D | Closed | |

| Geographical Management Unit (WAC 220-320-140) | Status | Opening Date |
|---|---------------|---------------------|
| MFSF Catch Areas 28A, 28B, 28C, and 28D | Closed | |

(b) The first spot shrimp catch accounting period starts one hour before official sunrise on April 29, 2022, through one hour after official sunset on August 2, 2022.

(c) It is unlawful for the total harvest during the first spot shrimp accounting period to exceed 4,500 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(3) Non-spot shrimp pot harvests:

(a) Non-spot shrimp pot harvest is permitted as indicated in the following table starting one hour before official sunset until further notice.

| Geographical Management Unit (WAC 220-320-140) | Status | Opening Date |
|---|---------------|---------------------|
| Subregion 1A | Open | 4/29/2022 |
| Subregion 1B | Open | 4/29/2022 |
| Subregion 1C | Open | 4/29/2022 |
| Region 2E | Open | 5/1/2022 |
| Region 2W | Open | 5/1/2022 |
| Region 3 | Open | 5/1/2022 |
| Discovery Bay Shrimp District | Open | 5/1/2022 |
| Region 4 | Closed | |
| Region 5 | Closed | |
| Region 6 | Closed | |

(b) The non-spot shrimp catch accounting period is weekly from one hour before official sunrise each Wednesday through one hour after official sunset on the subsequent Tuesday, totaling 7 days in length.

(c) It is unlawful for the combined total harvest of non-spot shrimp per license to exceed 700 pounds per non-spot shrimp catch accounting week from subregions 1A, 1B, 1C, and region 2E combined.

(d) There is no weekly harvest limit of non-spot shrimp from region 2W and region 3.

(e) Harvest of non-spot shrimp is not permitted deeper than 175 feet in subarea 23A East or subregion 1A.

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NEW SECTION

WAC 220-340-54000A Commercial shrimp trawl fishery—Puget Sound.

Notwithstanding the provisions of WAC 220-340-540, effective one hour before official sunrise on the dates listed in Tables 1(a) and 1(b), until further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful to fish for shrimp for commercial purposes using beam trawl gear in Puget Sound except as provided for in this section:

Non-spot shrimp trawl harvest:

(a) Non-spot shrimp beam trawl harvest is permitted as indicated in the following table starting one hour before official sunrise until further notice.

| Geographic Area Description (WAC 220-320-140(3)) | Status | Opening Date |
|--|---------------|-------------------------|
| Catch Area 20A outside of those waters north and east of a line from Point Roberts Light (48.9716°, -123.0838°) to Sandy Point Light at the Lummi Reservation (48.7868°, -122.7124°) | Open | 8/1/2022 |
| Those waters of Catch Area 21A north and west of a line from the southern tip of Sinclair Island (48.6097°, -122.6572°) to Carter Point (48.6404°, -122.6088°) on Lummi Island. | Open | 7/1/2022 |
| Subarea 23A East and MFSF Catch Areas 23B, 25A | Open | 5/1/2022 |
| Subarea 23A West | Open | 5/1/2022 |
| MFSF Catch Area 23C | Open | 5/1/2022 |
| MFSF Catch Area 29 | Open | 5/1/2022 |

(b) Non-spot shrimp beam trawl harvest is permitted starting one hour before official sunrise in the areas detailed below contingent on the harvester bringing an on-board observer on the first trip into the area. If by-catch sampling criteria are not met these areas will open on the later dates described in WAC 220-340-530(5d,e).

| Geographic Area Description (WAC 220-320-140(3)) | Status | Opening Date |
|--|---------------|-------------------------|
| Subregion 1B, MFSF Catch Area 20B. | Open | 5/16/2022 |
| Those waters of Lopez Sound within subregion 1B that are south of a line projected true east-west from the northern tip of Trump Island (48.5064°, -122.8369°). | Open | 5/1/2022 |
| That portion of Catch Area 22A within subregion 1B that are east of a line projected along -122.7833° longitude (east of Blakely Island) and west of a line projected along -122.7167° longitude (west of Cypress Island) in Rosario Strait. | Open | 5/1/2022 |

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WSR 22-10-061
EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed May 2, 2022, 12:40 p.m., effective May 2, 2022, 12:40 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Clarify that the department does not regulate community-based quarantine and isolation facilities operated by or under contract with a local government.

Citation of Rules Affected by this Order: New WAC 110-145-1305.

Statutory Authority for Adoption: RCW 74.13.031 and 74.15.030.

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

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. This rule allows for the expedient delivery of life-saving services to a highly vulnerable population in Washington state—homeless youth who have recently been diagnosed with, infected by, or who came into contact with COVID-19.

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

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

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

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

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

Date Adopted: May 2, 2022.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-05-024, filed 2/7/20, effective 3/9/20)

WAC 110-145-1305 What definitions do I need to know to understand this chapter? The following words and terms are for the purpose of this chapter and are important to understand these requirements:

"Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child as defined in RCW 26.44.020.

"Adult" means a person eighteen years old or older, not in the care of the department.

"Agency" is defined in RCW 74.15.020(1).

"Assessment" means the appraisal or evaluation of a child's physical, mental, social and emotional condition.

"Business hours" means hours during the day in which state business is commonly conducted. Typically the hours between 9 a.m. and 5 p.m. on weekdays are considered to be standard hours of operation.

"Capacity" means the age range, gender, and maximum number of children on your current license.

"Care provider" means any person who is licensed or authorized to provide care for children and cleared to have unsupervised access to children under the authority of a license.

"Case manager" means a facility employee who coordinates the planning efforts of all the persons working on behalf of a child.

"Chapter" means chapter 110-145 WAC.

"Child," "children," or "youth" for this chapter, means a person who is one of the following:

(a) Under eighteen years old;

(b) Up to twenty-one years of age and enrolled in services through the department of social and health services developmental disabilities administration (DDA) the day prior to their eighteenth birthday and pursuing either a high school or equivalency course of study (GED/HSEC), or vocational program;

(c) Up to twenty-one years of age and participates in the extended foster care program;

(d) Up to twenty-one years of age with intellectual and developmental disabilities;

(e) Up to twenty-five years of age and under the custody of juvenile rehabilitation.

"Community-based COVID-19 isolation and quarantine facility" means any person, firm, partnership, association, corporation, or facility operated by or pursuant to a contract with a county in Washington state, and that provides temporary isolation and quarantine services to homeless youth who have been diagnosed with, infected with, or exposed to COVID-19. A community-based COVID-19 isolation and quarantine facility does not qualify as an "agency" under RCW 74.15.020(1). Such facilities are exempt from department licensing under RCW 74.15.020 (2) (1).

"Child placing agency" or "CPA" means an agency licensed to place children for temporary care, continued care, or adoption.

"Compliance agreement" means a written improvement plan to address the changes needed to meet licensing requirements.

"Crisis residential center (secure)" means a licensed facility open twenty-four-hours a day, seven days a week that provides temporary residential placement, assessment and services in a secure facility to prevent youth from leaving the facility without permission per RCW 13.32A.030(15).

"Crisis residential center (semi-secure)" means a licensed facility open twenty-four hours a day, seven days a week that provides temporary residential placement, assessment and services for runaway youth and youth in conflict with their family or in need of emergency placement.

"CW" means the division of child welfare within DCYF. CW provides case management to children and families involved in the child welfare system.

"Day treatment" is a specialized service that provides educational and therapeutic group experiences for emotionally disturbed children.

"DDA" means the developmental disabilities administration. DDA provides services and case management to children and adults who meet the eligibility criteria.

"Deescalation" means strategies used to defuse a volatile situation, to assist a child to regain behavior control, and to avoid a physical restraint or other behavioral intervention.

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

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"Direct care" means direct, hands-on personal care and supervision to group care children and youth.

"DOH" means the department of health.

"Electronic monitoring" means video or audio monitoring or recording used to watch or listen to children as a way to monitor their behavior.

"Emergency respite center (ERC)" means a licensed facility that may be commonly known as a crisis nursery, which provides emergency or crisis care for nondependent children birth through seventeen years for up to seventy-two hours to prevent child abuse or neglect per RCW 74.15.020(d). ERCs may choose to be open up to twenty-four hours a day, seven days a week. Facilities may also provide family assessment, family support services and referral to community services.

"FBI" means the Federal Bureau of Investigation.

"Group care" is a general term for a licensed facility that is maintained and operated for a group of children on a twenty-four-hour basis to provide a safe and healthy living environment that meets the developmental needs of the children in care per RCW 74.15.020 (1)(f).

"Group home" is a specific license for residential care that provides care and supervision for children or youth.

"Group receiving center" means a licensed facility that provides the basic needs of food, shelter, and supervision for children placed by the department, generally for thirty or fewer days.

"Guns or weapons" means any device intended to shoot projectiles under pressure or that can be used to attack. These include but are not limited to BB guns, pellet guns, air rifles, stun guns, antique guns, handguns, rifles, shotguns, and archery equipment.

"Health care staff" means anyone providing qualified medical consultation to your staff or medical care to the children and youth in your care.

"Hearing" means the administrative review process conducted by an administrative law judge.

"I, my, you, and your" refers to an applicant for a license issued under this chapter, and to any party holding a license under this chapter.

"Infant" means a child less than twelve months of age.

"Intellectual and developmental disability" means children with deficits in general mental abilities and impairment in everyday adaptive functioning.

"Interim facility" means an overnight youth shelter, emergency respite center or a resource and assessment center.

"LD" means the licensing division of DCYF. LD licenses and monitors foster homes, child placing agencies, and licensed group care facilities.

"License" means a permit issued by us that your facility meets the licensing standards established in this chapter.

"Licensed health care provider" means an MD (medical doctor), DO (doctor of osteopathy), ND (doctor of naturopathy), PA (physician's assistant), or an ARNP (advanced registered nurse practitioner).

"Local fire authority" means your local fire inspection authority having jurisdiction in the area where your facility is located.

"Maternity service" as defined in RCW 74.15.020. These are also referred to as pregnant and parenting youth programs.

"Medically fragile" means the condition of a child who requires the availability of twenty-four-hour skilled care from a health care professional or specially trained staff or volunteers in a group care setting. These conditions may be present all the time or frequently occurring. If the technology, support and services being received by the medically fragile children are interrupted or denied, the child may, without immediate health care intervention, experience death.

"Missing child" means any child less than eighteen years of age in licensed care or under the care, custody, and authority of DCYF and the child's whereabouts are unknown, the child has left care without the permission of the child's caregiver or DCYF, or both. This does not include children in a dependency guardianship.

"Multidisciplinary teams (MDT)" means groups formed to assist children who are considered at risk youth or children in need of services, and their parents.

"Negative action" means a court order, court judgment, or adverse action taken by an agency, in any state, federal, local, tribal, or foreign jurisdiction, that results in a finding against the applicant reasonably related to the individual's suitability, and competence to care for or have unsupervised access to children in out-of-home care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse licensing action, including termination, revocation, or denial of a license or certification, or if there is a pending adverse action, the voluntary surrender of a license, certification, or contract in lieu of an adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

"Nonambulatory" means not able to walk or exit to safety without the physical assistance of another individual.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Overnight youth shelter" means a licensed nonprofit agency that provides overnight shelter to homeless or runaway youth in need of emergency sleeping arrangements.

"Probationary license" means a license issued as part of a corrective action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing requirements and has entered into an agreement aimed at correcting deficiencies.

"Property or premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include antipsychotic, antidepressant, and anti-anxiety medications.

"Relative" means a person who is related to a child per RCW 74.15.020.

"Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, (excluding Saturdays, Sundays, and holidays) to children who have been removed from their parent's or guardian's care by child protective services or law enforcement.

"Staff" or "staff member" means a person who provides services for your facility and is paid by your facility. The definition of staff member includes paid interns.

"Staffed residential home" means a licensed facility that provides twenty-four-hour care to six or fewer children who require more supervision than can be provided in a foster home.

"Treatment plan" means individual plans that identify the service needs of the child, including the child's parent or guardian, and identifies the treatment goals and strategies for achieving those goals.

"Volunteer" means a person who provides services for your facility without compensation.

"Washington state patrol fire protection bureau" or "WSP/FPB" means the state fire marshal.

"We, our, and us" refers to DCYF and its staff.

"Young child" refers to a child age twelve months through eight years old.

[Statutory Authority: RCW 43.43.832, 74.13.031, 74.15.030 and P.L. 115-12. WSR 20-05-024, § 110-145-1305, filed 2/7/20, effective 3/9/20. WSR 18-14-078, recodified as § 110-145-1305, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, 74.39A.056, 43.43.832. WSR 18-11-138, § 388-145-1305, filed 5/23/18, effective 6/23/18. Statutory Authority: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031, and P.L. 113-183. WSR 16-17-101, § 388-145-1305, filed 8/19/16, effective 9/19/16. Statutory Authority: Chapters 13.34 and 74.13 RCW, RCW 74.15.030(2), 74.15.311(2), 74.13.032, 13.04.011, 74.13.020, 13.34.030, 74.13.031, 13.34.145, 74.15.311, 74.15.030, and 2013 c 105. WSR 15-01-069, § 388-145-1305, filed 12/11/14, effective 1/11/15.]

WSR 22-10-088
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed May 3, 2022, 2:53 p.m., effective May 3, 2022, 2:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To allow school free and reduced price meal counts taken from the October 1, 2019, high poverty schools annual report to carry over to the 2021-22 school year for the purpose of the high poverty schools national board certified teacher (NBCT) bonus. This rule change only affects schools who lost high poverty school eligibility between the October 1, 2019, and October 1, 2020, free and reduced price meal counts. Schools that are eligible as high poverty in 2021-22 per the October 1, 2020, count will not carry over the October 1, 2019, count. Schools that are eligible as high poverty per participation in the community eligibility provision or Provision 2 federal meal programs will also not be affected by this change.

Citation of Rules Affected by this Order: Amending WAC 392-140-973.

Statutory Authority for Adoption: RCW 28A.150.290 and 28A.405.415.

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

Reasons for this Finding: Due to the global COVID-19 pandemic, many Washington state schools and districts were able to provide free meals to all enrolled students. As a result, collecting family income information that would typically drive free and reduced meal counts was significantly reduced. The remote learning environment that most schools operated in also heavily impacted their capacity to collect family income information. These factors affected the free and reduced meal counts as of October 1, 2020, that are used to determine high poverty schools eligibility in 2021-22. Consequently, many schools that had historically been eligible for high poverty schools NBCT bonuses have lost eligibility due to underreporting free and reduced price meal counts in 2020.

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

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

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

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

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

Date Adopted: May 3, 2022.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

OTS-3608.1

AMENDATORY SECTION (Amending WSR 20-03-150, filed 1/21/20, effective 2/21/20)

WAC 392-140-973 Salary bonus for teachers and other certificated instructional staff who hold current certification by the national board—Eligibility. Staff that are eligible for the bonus shall be limited to those meeting the following requirements:

(1) Hold current certification by the national board for professional teaching standards during the entire school year, unless otherwise specified in the state Biennial Operating Appropriations Act; and

(2) Who are:

(a) Teachers and other certificated instructional staff employed full time or part time under written contract by Washington public school districts or educational service districts pursuant to RCW 28A.405.210;

(b) Teachers and other certificated instructional staff employed full time or part time by a contractor pursuant to WAC 392-121-188 and 392-121-206 (2) (a);

(c) Teachers and other certificated instructional staff employed full time or part time by the Washington school for the deaf or Washington school for the blind;

(d) Teachers and other certificated instructional staff employed full time or part time by a charter school; or

(e) Teachers and other certificated instructional staff employed full time or part time by a tribal compact school.

(3) In addition to bonuses provided by subsection (2) of this section, teachers and other certificated instructional staff shall be eligible for additional bonuses if in an instructional assignment in high poverty schools, subject to the following conditions and limitations:

(a) High poverty schools are schools where, for the prior year, the student headcount enrollment eligible for the federal free or reduced price lunch program was at least:

(i) Seventy percent for elementary schools;

(ii) Sixty percent for middle schools; or

(iii) Fifty percent for high schools; as determined by the October 1st count of the comprehensive education data and research system (CEDARS) or successor data collection and reporting systems, of the office of superintendent of public instruction, on March 31st of that prior year: Provided, That schools operating during the current school year as their first year may qualify as high poverty schools based upon current year data, as determined by the October 1st count on March 31st of the current year.

(b) For purposes of the national board high poverty schools bonus, a school shall be categorized based upon the highest grade served as follows:

(i) A school whose highest grade served is 6th grade or lower shall be considered an elementary school;

(ii) A school whose highest grade served is either 7th, 8th, or 9th grade shall be considered a middle school;

(iii) A school whose highest grade served is either 10th, 11th, or 12th grade shall be considered a high school.

(c) A school shall be considered only if it serves (~~(thirty)~~) 30 or more students, or is the largest school in the district serving its designated category.

(d) Schools that provide institutional education programs pursuant to WAC 392-122-205 shall be designated as high poverty schools with the student headcount enrollment eligible for the federal free or reduced price lunch program at (~~(one hundred)~~) 100 percent and shall not be subject to the requirement in this subsection of serving (~~(thirty)~~) 30 or more students.

(e) The student enrollment data used shall include the state-funded students in kindergarten through (~~(twelfth)~~) 12th grade, plus pre-kindergarten students in special education.

(f) Teachers and other certificated instructional staff that meet the qualifications for the high poverty schools bonus under this subsection who are assigned for less than one full school year or less than full time for the school year shall receive the high poverty schools bonus in a prorated manner, subject to the following conditions and limitations:

(i) The portion of the employee's assignment to high poverty schools shall be determined as of the last day of school, or June 30th of the school year, whichever occurs first.

(ii) If the employee's assignment to high poverty schools is less than 1.0 full-time equivalent, the proration shall use the methodology in WAC 392-121-212 and shall be rounded to three decimal places.

(g) A school participating in the community eligibility provision or provision 2 as authorized by section 11 (a) (1) of the Richard B. Russell National School Lunch Act may be designated as a high poverty school if the school was a high poverty school based on the student headcount enrollment eligible for the federal free or reduced price lunch program in either of the two school years immediately prior to the school's participation in the community eligibility provision.

(h) For the 2021-22 school year, high poverty school eligibility will be based on the student headcount enrollment eligible for the federal free or reduced price lunch program as of the October 1, 2019, or October 1, 2020, count on March 31st of that school year, whichever percentage is greater for high poverty school designation. Schools participating in the community eligibility provision or provision 2 federal meal programs in the 2021-22 school year shall continue to be designated as high poverty schools per (g) of this subsection.

[Statutory Authority: RCW 28A.150.290(1) and 28A.405.415. WSR 20-03-150, § 392-140-973, filed 1/21/20, effective 2/21/20; WSR 19-02-067, § 392-140-973, filed 12/28/18, effective 1/28/19; WSR 18-14-103, § 392-140-973, filed 7/3/18, effective 8/3/18. Statutory Authority: RCW 28A.150.290(1). WSR 16-23-102, § 392-140-973, filed 11/17/16, effective 12/18/16. Statutory Authority: RCW 28A.150.290 and 28A.710.220. WSR 15-18-078, § 392-140-973, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.150.290(1) and 28A.405.415. WSR 14-04-002, § 392-140-973, filed 1/22/14, effective 2/22/14; WSR 11-23-116, § 392-140-973, filed 11/21/11, effective 12/22/11. Statutory Authority: RCW 28A.150.290(1). WSR 11-02-054, § 392-140-973, filed 1/3/11, effective 2/3/11; WSR 10-12-020, § 392-140-973, filed 5/21/10, effective 6/21/10; WSR 09-07-043, § 392-140-973, filed 3/11/09, effective 4/11/09; WSR 08-17-013, § 392-140-973, filed 8/8/08, effective 9/8/08. Statutory Authority: RCW 28A.150.290(2) and 2001 c 7 § 514(12). WSR 02-15-023, § 392-140-973, filed 7/9/02, effective 8/9/02.]

WSR 22-10-095
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-65—Filed May 4, 2022, 6:00 p.m., effective May 4, 2022]

Effective Date of Rule: May 4, 2022.

Purpose: The purpose of this emergency rule is to close spring Chinook fisheries from Bonneville Dam to the Oregon/Washington state line at Hwy. 730.

Citation of Rules Affected by this Order: Repealing WAC 220-312-06000I.

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

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

Reasons for this Finding: Catch estimates for the mainstem spring Chinook fishery from Bonneville Dam to the Oregon/Washington state line indicate the preupdate allowable catch for upriver spring Chinook has been met. Upriver spring Chinook are the surrogate for Endangered Species Act-listed spring Chinook above Bonneville Dam. Joint state action is necessary to limit additional upriver spring Chinook catches.

Staff will continue to monitor the run and assess catch information to determine if the fishery can reopen at a later date. The *U.S. v. OR* technical advisory committee has not yet provided a run size update on the upriver spring Chinook run, which typically occurs in mid-May.

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: May 3, 2022.

Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective May 4, 2022:

WAC 220-312-06000I Freshwater exceptions to statewide
rules—Columbia. (22-28)