

WSR 22-18-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-179—Filed August 24, 2022, 4:19 p.m., effective August 24, 2022, 4:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The provisions of this emergency rule:

(1) Open identified geographical management units to commercial spot shrimp pot harvest that have available clean-up quota.

(2) Close Region 2E to commercial nonspot pot harvest one hour after sunset on August 29, 2022.

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

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

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

Reasons for this Finding: This emergency rule is necessary to prosecute state commercial shrimp pot and trawl 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 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 comanager 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: August 24, 2022.

Kelly Susewind
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-520, immediately, 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 Harvest:

(a) Spot shrimp harvest is permitted as indicated in the following table opening one hour before official rise until further notice. Any closures take effect one hour after official sunset.

Geographical Management Unit (WAC 220-320-140)	Open period
Subregion 1A	Immediately, until further notice
Subregion 1B	Closed
Subregion 1C	Immediately, until further notice
Region 2E	Immediately, until further notice
Region 2W	Closed
Subarea 23A-E	Immediately, until further notice
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Immediately, until further notice
Subarea 23A-S and MSFS Catch Area 23D	Immediately, until further notice
MFSF Catch Area 23C	Immediately, until further notice
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Immediately, until further notice
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Immediately, until further notice
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Immediately, until further notice
Region 5	Immediately, until further notice
MFSF Catch Area 26D	Immediately, until further notice
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) The first spot shrimp catch accounting period started one hour before official sunrise on May 1, 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 have exceeded 4,500 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period started one hour before official sunrise on August 3, 2022, through one hour after official sunset on August 23, 2022.

(e) It is unlawful for the total harvest during the first and second spot shrimp accounting periods to exceed 5,350 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(f) It is unlawful to harvest spot shrimp from more than one Geographical Management Unit listed in 2(a) in a single day with the following exceptions:

(i) Spot shrimp may be harvested from subregion 1A and subregion 1C on the same day.

(ii) Spot shrimp may be harvested from subarea 23A-E, and either 23A-W, 23A-C or MFSF Catch Area 23B on the same day.

(3) Non-spot shrimp pot harvests:

(a) Non-spot shrimp pot harvest is permitted as indicated in the following table opening one hour before official rise until further notice. Any closures take effect one hour after official sunset.

Geographical Management Unit (WAC 220-320-140)	Open period
Subregion 1A	Closed
Subregion 1B	Closed
Subregion 1C	Immediately, through October 15, 2022
Region 2E	Immediately, through August 29, 2022
Region 2W	Immediately, through October 15, 2022
Region 3, not including Discovery Bay Shrimp District	Immediately, through October 15, 2022
Discovery Bay Shrimp District	Immediately, through October 15, 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, Region 3, and Discovery Bay Shrimp District.

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

(f) It is unlawful to harvest non-spot shrimp in more than one Geographical Management unit listed in subsection 3(a) in a single day with the following exceptions:

(i) Non-spot shrimp may be harvested from more than one subregion of Region 1 on the same day.

(ii) Non-spot shrimp may be harvested from Discovery Bay Shrimp District and Region 3 on the same day.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000C Commercial shrimp pot fishery—Puget Sound. (22-177)

WSR 22-18-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-180—Filed August 24, 2022, 4:21 p.m., effective August 24, 2022, 4:21 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational shrimp fishery in Puget Sound. Opens Marine Area 6 (excluding the Discovery Bay Shrimp District) for recreational nonspot shrimp fishing.

Citation of Rules Affected by this Order: Repealing WAC 220-330-07000Q; and amending WAC 220-330-070.

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

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

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage the fishery within court-ordered sharing requirements, and ensure conservation. This regulation maintains the recreational spot shrimp fisheries already open in Marine Areas 4 and 5 through September 15. This regulation maintains the recreational nonspot shrimp fisheries already open in Marine Areas 7 East, 8-1, 8-2, 9, 11, and 13 through October 15. There is also sufficient recreational nonspot shrimp share to open the recreational fishery in Marine Area 6 outside Discovery Bay through October 15. The nonspot shrimp fisheries have maximum depth restrictions specific to each area to limit capture and handling of spot shrimp. Spot shrimp must be immediately released unharmed during nonspot shrimp seasons. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a 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: August 24, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-07000R Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-330-070, effective immediately, until fur-

ther notice it is unlawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 4 (east of the Bonilla-Tatoosh line), 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, 13 and the Discovery Bay Shrimp District, except as provided for in this section:

(1) Marine Areas 4 (east of the Bonilla-Tatoosh line) and 5: Open each day, from 1 hour before official sunrise to 1 hour after official sunset, through September 15 for all shrimp species.

(2) Marine Area 6 (excluding the Discovery Bay Shrimp District): Open through October 15 for shrimp species other than spot shrimp with a 175-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 175 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(3) Marine Area 7 East: Open through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(4) Marine Areas 8-1 and 8-2: Open through October 15 for shrimp species other than spot shrimp with a 175-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 175 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(5) Marine Area 9: Open through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(6) Marine Area 11: Open through October 15 for shrimp species other than spot shrimp with a 150-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 150 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

(7) Marine Area 13: Open through October 15 for shrimp species other than spot shrimp with a 200-foot maximum fishing depth restriction. During this time it is unlawful to set or pull shrimp gear in waters greater than 200 feet deep. All spot shrimp caught must be immediately returned to the water unharmed.

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-330-07000Q Shrimp—Areas and seasons. (22-159)

WSR 22-18-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-182—Filed August 25, 2022, 12:03 p.m., effective August 25, 2022, 12:03 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow retention of unmarked coho.

Citation of Rules Affected by this Order: Repealing WAC 220-354-30000L; and 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. A reduction in the remaining quota for the troll fishery was implemented in conjunction with this change to ensure that allowing catch of unmarked coho will not increase impact on wild coho stocks. 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 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: August 25, 2022.

Kelly Susewind
Director

NEW SECTION

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

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050 and WAC 220-354-010, effective immediately, 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: Immediately, through September 30, 2022.

(2) Landing and possession limit of 10 Chinook per vessel per landing week defined as Thursday through Wednesday.

(3) Landing and possession limit of 150 coho 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) No chum retention north of Cape Alava, WA in August and September.

(6) Minimum size for Chinook salmon is 27 inches in length (20 1/2 inches frozen dressed). Minimum size for coho salmon is 16 inches in length (12 inches frozen dressed). No minimum size for pink, sock-eye or chum salmon.

(7) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board 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.

(8) 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.

(9) 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.

(10) 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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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 section of the Washington Administrative Code is repealed:

WAC 220-354-30000L Coastal salmon troll seasons—
Commercial. (22-172)

WSR 22-18-009
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-181—Filed August 25, 2022, 1:50 p.m., effective August 27, 2022]

Effective Date of Rule: August 27, 2022.

Purpose: The purpose of this emergency rule is to allow retention of unmarked coho in Catch Record Card Area 2.

Citation of Rules Affected by this Order: Repealing WAC 220-313-07500N; and amending WAC 220-313-075.

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 adjust daily limits in Catch Record Card Area 2. Mark rates for coho have been lower than expected in Area 2, increasing encounters with Chinook and wild coho as anglers pursue marked coho. A reduction in the remaining quota for the Area 2 fishery was implemented in conjunction with this change to ensure that allowing catch of unmarked coho will not increase impacts on wild coho stocks of concern. Allowing retention of unmarked coho may reduce the length of the season but should increase the quality of remaining fishing opportunity.

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 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: August 25, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-07500P Pacific Ocean salmon—Seasons—Closed areas.
Effective August 27, through October 8, 2022 the provisions of WAC

220-313-075 regarding recreational salmon seasons for Marine Areas 1 through 4 shall be as described below. All other provisions of WAC 220-313-075 not addressed herein remain in effect unless otherwise amended:

(1) **Catch Record Card Area 1:** Open immediately, through September 30, 2022:

- (a) Daily limit of 2 salmon.
- (b) Release Chinook and wild coho.
- (c) Coho minimum length 16 inches.

(2) **Catch Record Card Area 2:** Open immediately, through September 30, 2022:

- (a) Daily limit of 2 salmon.
- (b) Release Chinook.
- (c) Coho minimum length 16 inches.

(d) Possession of Chinook onboard a vessel, including in transit, is unlawful.

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

(a) Open immediately, through September 30, 2022:

- (i) Daily limit of 2 salmon; no more than one may be a Chinook
- (ii) Release chum and wild coho.
- (iii) Chinook minimum length 24 inches.
- (iv) Coho minimum length 16 inches.

(b) Open October 5 through October 8, 2022 only in the area north of 47°50'00N. lat. and south of 48°00'00"N. lat.:

- (i) Daily limit 2 Chinook salmon only.
- (ii) Release all salmon except Chinook.
- (iii) Chinook minimum length 24 inches.

(4) **Catch Record Card Area 4:** Open immediately, through September 30, 2022:

- (a) Daily limit of 2 salmon; no more than one may be a Chinook
- (b) Release chum and wild coho.
- (c) Chinook minimum length 24 inches.
- (d) Coho minimum length 16 inches.

(e) Chinook retention prohibited in waters east of the Bonilla-Tatoosh line.

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

REPEALER

The following section of Washington Administrative Code is repealed, effective August 27, 2022:

WAC 220-313-07500N Pacific Ocean salmon—Seasons—Closed areas. (22-178)

WSR 22-18-018
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-183—Filed August 26, 2022, 12:50 p.m., effective August 28, 2022]

Effective Date of Rule: August 28, 2022.

Purpose: The purpose of this emergency rule is to set weekly landing and possession limits for coastal commercial crab fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000I; and amending WAC 220-340-420.

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 weekly landing limit and period is necessary to mitigate handling mortality from sorting soft-shelled crab and provide for an orderly fishery. 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: August 26, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000J Commercial crab fishery—Unlawful acts. Effective August 28, through September 15, 2022; notwithstanding the provisions of WAC 220-340-420:

(1) Effective immediately until further notice, it is unlawful for any person licensed to fish under a Dungeness crab-coastal fishery license to possess or land crab in excess of 1,200 pounds taken during each of the following coastal crab accounting periods:

- August 28 - September 3, 2022
- September 4 - September 10, 2022
- September 11 - September 15, 2022

(2) Any crab taken prior to August 28, 2022, and not landed before 11:59 p.m. August 27, 2022, becomes part of the August 28 - September 3, 2022 accounting period catch.

(3) It is unlawful for any person taking crab under subsection (1) of this section to fish for crab during any accounting period while having on board any crab taken in a different accounting period.

(4) All other provisions of the permanent rule remain in effect.

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REPEALER

The following section of the Washington Administrative Code is repealed, effective August 28, 2022:

WAC 220-340-42000I Commercial crab fishery—Unlawful acts.
(22-104)

WSR 22-18-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-184—Filed August 26, 2022, 1:34 p.m., effective August 28, 2022]

Effective Date of Rule: August 28, 2022.

Purpose: The purpose of this emergency rule is to close commercial salmon seasons in Puget Sound Salmon Management and Catch Reporting Area 7C and a portion of Area 7B.

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

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

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

Reasons for this Finding: This emergency rule is needed to close commercial gill net and purse seine seasons in Puget Sound Salmon Management and Catch Reporting Area 7C and a portion of Area 7B.

For the waters of Area 7B: Currently, United States fisheries (all citizen and tribal) targeting sockeye salmon are closed. At current predicted run-size levels, the United States is over its allowable share of sockeye returning to the Fraser River. Closing these waters to fishing will ensure additional sockeye salmon harvest remains low.

The closure of gill net fisheries in Area 7C is necessary to avoid gear conflicts with a tribal crab opening. This action is undertaken through comanager agreement.

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: August 26, 2022.

Kelly Susewind
Director

NEW SECTION**WAC 220-354-12000H Puget Sound salmon—Purse seine—Open periods.**

Notwithstanding the provisions of WAC 220-354-120, effective August 30, 2022, until further notice:

In waters of Puget Sound salmon Management and Catch Reporting Area 7B west of a line from Point Francis (48°41'46"N, 122°36'32"W) to the red and green buoy southeast of Point Francis (48°40'27"N, 122°35'24"W), then to the northernmost tip of Eliza Island (48°39'38"N, 122°35'14"W), then along the eastern shore of the island to its southernmost tip (40°38'40"N, 122°34'57"W) and then north of a line from the southernmost tip of Eliza Island to Carter Point (48°38'24"N, 122°36'31"W) it is unlawful to retain the following salmon species taken with purse seine gear:

- (a) Chinook salmon after October 20.
- (b) Coho salmon prior to September 1.
- (c) Sockeye salmon after August 30.

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NEW SECTION**WAC 220-354-16000U Puget Sound salmon—Gillnet—Open periods.**

Notwithstanding the provisions of WAC 220-354-160:

(a) Effective August 28, 2022, until further notice, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in the following area of Puget Sound Salmon Management and Catch Reporting Area 7B:

Waters of Area 7B west of a line from Point Francis (48°41'46"N, 122°36'32"W) to the red and green buoy southeast of Point Francis (48°40'27"N, 122°35'24"W), then to the northernmost tip of Eliza Island (48°39'38"N, 122°35'14"W), then along the eastern shore of the island to its southernmost tip (40°38'40"N, 122°34'57"W) and then north of a line from the southernmost tip of Eliza Island to Carter Point (48°38'24"N, 122°36'31"W).

(b) Effective the day of August 30, 2022 only, it is unlawful to take, fish for, or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Area 7C.

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

WSR 22-18-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-185—Filed August 26, 2022, 2:54 p.m., effective August 29, 2022]

Effective Date of Rule: August 29, 2022.

Purpose: The purpose of this emergency rule is to close salmon fishing in Catch Record Card Area 13.

Citation of Rules Affected by this Order: Amending WAC 220-313-060.

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

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

Reasons for this Finding: Expected catches in both recreational and tribal fisheries are below preseason expectation to date. The recreational marine area salmon fishery will be paused until further notice to further evaluate Chinook returns to South Sound to ensure natural escapement and broodstock goals are met. This fishery may reopen if further information suggests such an action is warranted. 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: August 26, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000I Puget Sound salmon—Saltwater seasons and daily limits. Effective August 29, 2022, until further notice, for Catch Record Card Area 13, except Fox Island Public Fishing pier, the following provisions of WAC 220-313-060 regarding salmon seasons shall be modified as described below. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Salmon: Closed.

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WSR 22-18-046
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed August 30, 2022, 9:22 a.m., effective September 1, 2022]

Effective Date of Rule: September 1, 2022.

Purpose: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: Adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service from all waivers except the community protection waiver; amend the definition of the specialized evaluation and consultation service; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.

Citation of Rules Affected by this Order: New WAC 388-845-2141, 388-845-2142 and 388-845-2143; repealing WAC 388-845-0501 and 388-845-0506; and amending WAC 388-845-0001, 388-845-0005, 388-845-0010, 388-845-0045, 388-845-0050, 388-845-0070, 388-845-0110, 388-845-0111, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0415, 388-845-0425, 388-845-0500, 388-845-0505, 388-845-0510, 388-845-0515, 388-845-0800, 388-845-0805, 388-845-0810, 388-845-0820, 388-845-0900, 388-845-0940, 388-845-1030, 388-845-1040, 388-845-1163, 388-845-1190, 388-845-1192, 388-845-1195, 388-845-1197, 388-845-1660, 388-845-1810, 388-845-1865, 388-845-1890, 388-845-2000, 388-845-2005, 388-845-2010, 388-845-2130, 388-845-2210, 388-845-2260, 388-845-2290, 388-845-3080, 388-845-4000, and 388-845-4005.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.120.

Other Authority: 42 C.F.R. 441.301, Section 1915(c) of the Social Security Act.

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: Filing these amendments on an emergency basis is necessary to ensure federal compliance and maintain federal funding for the state.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 46, Repealed 2; 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 3, Amended 46, Repealed 2.

Date Adopted: August 29, 2022.

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [22-19](#) issue of the Register.

WSR 22-18-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-186—Filed August 30, 2022, 12:54 p.m., effective August 31, 2022]

Effective Date of Rule: August 31, 2022.

Purpose: The purpose of this emergency rule is to close Chinook retention in the Columbia River, from Buoy 10 to the west end of Puget Island.

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

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

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

Reasons for this Finding: The Buoy 10 lower river 'tule' Chinook mortalities have exceeded preseason expectations through the Chinook retention season. Due to higher-than-expected Endangered Species Act (ESA) impacts from the Buoy 10 fishery, joint state action was necessary to limit additional Chinook impacts and allow the hatchery coho retention fishery to remain open. Staff will continue to monitor progress of ongoing fisheries, with an expectation to manage within the allowed 38 percent ESA impact rate. This rule conforms Washington state rules with Oregon state rules.

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

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

This rule also carries forward Columbia River salmon seasons previously set in WSR 22-15-033, filed July 13, 2022.

There is insufficient time to promulgate 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: August 30, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia River. Effective August 3, 2022, until further notice, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from a true north-south line through Buoy 10 to Chief Joseph Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From a true north-south line through Buoy 10 upstream to a line from Rocky Point on the Washington bank through Red Buoy 44 to the red navigation marker 2 at Tongue Point on the Oregon Bank (the Rocky Point/Tongue Point line), and including Youngs Bay:

(a) Effective August 31 through September 7, 2022: Salmon and steelhead: Daily limit 2. Coho minimum size 16 inches. Release all salmon and steelhead other than hatchery coho.

(b) Effective September 8 through September 30, 2022: Salmon and steelhead: Daily limit 3. Coho minimum size 16 inches. Release all salmon and steelhead other than hatchery coho.

(c) Effective October 1 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained. Release all salmon and steelhead other than hatchery coho.

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

(2) From the Rocky Point/Tongue Point line upstream to a line at the west end of Puget Island projected from green navigation marker 39 on the Washington bank to green navigation marker 41, then to red navigation marker 42, and terminating at red navigation marker 44A on the Oregon bank:

(a) Effective August 31 through September 7, 2022: Salmon and steelhead: Daily limit 6. Up to 2 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(b) Effective September 8 through September 30, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained. Release all salmon and steelhead other than hatchery coho.

(c) Effective October 1 through October 31, 2022: Salmon and steelhead: Daily limit 6. Up to 3 adults may be retained. Release all salmon and steelhead other than hatchery coho.

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

(3) From Priest Rapids Dam to boundary markers 400 feet downstream of the fish ladders at Rock Island Dam: Salmon:

Effective immediately, through August 31, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

(4) From Rock Island Dam to Boundary 400 feet below the Wells Dam spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side): Salmon:

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

(5) From Wells Dam to Hwy. 173 Bridge at Brewster: Salmon:

Effective immediately, through September 30, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

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

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

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REPEALER

The following section of Washington Administrative Code is repealed, effective August 31, 2022:

WAC 220-312-06000W Freshwater exceptions to statewide rules—Columbia. (22-136)

WSR 22-18-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-187—Filed August 31, 2022, 10:54 a.m., effective August 31, 2022, 10:54 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to return Catch Record Card Area 13 salmon seasons to permanent rules.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000I.

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: Chinook salmon returns to the Nisqually River were below preseason expectations through last Friday when the Washington department of fish and wildlife (WDFW) paused recreational salmon fishing. After discussions with comanagers and evaluating current information, WDFW is comfortable that management objectives will not be compromised by reopening recreational salmon fishing.

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: August 31, 2022.

Kelly Susewind
Director

REPEALER

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

WAC 220-313-06000I Puget Sound salmon—Saltwater seasons and daily limits. (22-185)

WSR 22-18-060

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed August 31, 2022, 3:19 p.m., effective August 31, 2022, 3:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-320-700 Reporting of health system readiness data. The department of health (department) is adopting an emergency rule to create new WAC 246-320-700 to require acute care hospitals licensed under chapter 70.41 RCW to report hospital maintenance and operation data to the department through Washington's Healthcare and Emergency and Logistics Tracking Hub (WA HEALTH) in accordance with the WA HEALTH user guide. WA HEALTH is used daily to inform planned patient movement, COVID-19 hospitalization and disease trends, and supply needs across the state so patients have access to the appropriate level of health care.

Citation of Rules Affected by this Order: New WAC 246-320-700.

Statutory Authority for Adoption: RCW 70.41.030.

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 Inslee's Proclamation 20-24.2, "Requirements for Non-Urgent Medical and Dental Procedures," requires hospitals to submit accurate and complete data, as required by any department guidelines, to the WA HEALTH reporting data system to allow for a statewide common operating perspective on resource availability. On July 29, 2022, the office of the governor announced the rescission of Proclamation 20-24.2, to become effective on October 27, 2022. This emergency rule is necessary to allow for the continuation of reporting of timely and accurate data pertaining to hospital's patient volumes, capacities and resource constraints, even after other emergency measures related to COVID-19 are lifted. This will ensure health system readiness, promote safe and adequate care of individuals in hospitals, and mitigate the impact of future COVID-19 surges or other emerging public health threats. The department plans to initiate a rule-making project in the fall to work with interested parties on consideration of adopting this requirement as a permanent 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 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 1, Amended 0, Repealed 0.

Date Adopted: August 31, 2022.

Todd Mountin, PMP
Deputy Secretary of Operations
for Umair A. Shah, MD, MPH

OTS-3921.2

NEW SECTION

WAC 246-320-700 Reporting of health system readiness data. The purpose of this section is to outline each hospital's responsibility for reporting to the department data pertaining to the maintenance and operation of the hospital in support of health system readiness.

(1) For the purposes of this section:

"WA HEALTH User Guide" means the written instructions issued by the department for reporting to the department hospital maintenance and operation data pertaining to health system readiness.

(2) Hospitals must report data to the department in accordance with the WA HEALTH User Guide, including any amended versions thereof issued by the department. Copies of the WA HEALTH User Guide may be obtained on the department's website or by contacting the department.

(3) Any person who receives data reported under this section must maintain confidentiality of the data as required by applicable law.

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WSR 22-18-061
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed September 1, 2022, 8:57 a.m., effective September 1, 2022]

Effective Date of Rule: September 1, 2022.

Purpose: The department of children, youth, and families (DCYF) will be making changes to the child welfare WAC in chapter 110-50 WAC and WAC 110-80-0260 regarding referrals to the division of child support when children are placed into DCYF's care. Currently DCYF refers all children, unless good cause exists to not pursue collection. DCYF wants to revise the types of cases being referred and the good cause criteria to minimize the number of referrals made to the division of child support. These changes are being made to help to alleviate financial hardship and other barriers families often experience, which in turn helps reunify and stabilize children and their families sooner. In addition, the governor's office has included minimized referrals as a cost savings in the 2022 budget proposal.

Citation of Rules Affected by this Order: Repealing WAC 110-50-0310; and amending WAC 110-80-0260, 110-50-0300, and 110-50-0320.

Statutory Authority for Adoption: RCW 74.20.040.

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: Children and youth have not exited DCYF care as quickly as they did before the pandemic. New COVID[-19] variants are always a possibility, such as the emergence of the BA.5 strain this summer. The ongoing emergence of new COVID-19 variants can and has caused COVID[-19]-related backlogs of court cases and postponed DCYF services to children and families, including, but not limited to, parental education, drug and alcohol treatment, and domestic violence counseling. DCYF's child support payment process, in existence long before the pandemic, can lead to prolonged debt and prevent parents' ability to maintain or obtain suitable housing or other resources needed for family reunification. In late 2021, families lost the financial security provided by the state's COVID[-19]-related [related] eviction moratorium, causing additional financial hardships for families already financially challenged by child support collection. Immediate changes to the child support payment process will alleviate some of the COVID[-19]-related financial hardships families can face and allow family reunification to occur sooner. Furthermore, the governor's 2022 budget supports these changes, which are included as a cost savings.

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 1.

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

Date Adopted: September 1, 2022.

Brenda Villarreal
Rules Coordinator

OTS-4046.2

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0300 ((What)) When will cases ((must)) be referred to the division of child support (DCS)? ~~((Each case where the department participates in the payment of foster care must be referred to the division of child support, except when:~~

- ~~(1) Collection would not be cost effective, including placements of seventy-two hours or less;~~
- ~~(2) Collection is exempt by law; or~~
- ~~(3) A child with developmental disabilities is eligible for admission to or discharged from a residential habilitation center as defined by RCW 71A.10.020(8), unless the child is placed as a result of an action taken under chapter 13.34 RCW.))~~ (1) The department will refer cases to DCS when a court has made a finding of abandonment as defined in RCW 13.34.030, unless good cause exists.

(2) Nothing in this section prohibits a parent, guardian, or relative from pursuing child support by contacting DCS directly.

[WSR 18-14-078, recodified as § 110-50-0300, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 2004 c 183, 74.20.040, and 74.13.020. WSR 05-06-091, § 388-25-0225, filed 3/1/05, effective 4/1/05. Statutory Authority: RCW 74.13.031. WSR 01-08-047, § 388-25-0225, filed 3/30/01, effective 4/30/01.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0320 What constitutes good cause for not pursuing the collection or establishment of child support or paternity? ~~((Child-
ren's administration uses the following criteria to determine whether sufficient good cause exists for requesting that DCS not pursue col-
lection or establish child support or paternity on foster care ca-
ses:))~~ Good cause for not pursuing the collection of child support or establishing paternity exists when:

- (1) It is not in the child's or youth's best interest; and
- (2) The parent or ~~((other legally obligated person))~~ guardian, or the ~~((parent or other person's))~~ parent's or guardian's child or youth, spouse, or spouse's child or youth was the victim of the of-

fense for which the child or youth was committed to the custody of the juvenile rehabilitation (~~(administration (JRA))~~) division (JRD) and the child or youth is being placed directly into foster care from a (~~(JRA)~~) JRD facility until this placement episode closes;

(3) Adoption proceedings for the child or youth are pending in court or the custodial parent or guardian is being helped by a private or public agency to decide if the child or youth will be placed for adoption;

(4) The child or youth was conceived as a result of incest or rape (~~(and establishing paternity would not be in the child's best interest)~~);

(5) The juvenile or tribal court in (~~(the)~~) dependency proceedings or the department finds that the parents or guardians will be unable to comply with an agreed reunification plan with the child or youth due to (~~(the)~~) financial hardship caused by paying child support (~~(. The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification; or)~~);

(6) The custodial parent (~~(and/or)~~) or guardian or the child or youth may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the (~~(person that the division of child support)~~) individual that DCS would be pursuing for collection action;

(7) The child support obligation would result in a financial hardship for parents or guardians because the child's or youth's household was low income at the time of removal; or

(8) The parent of a newborn child abandons the child by transferring the child to a qualified individual at an appropriate location, per RCW 26.20.030.

[WSR 18-14-078, recodified as § 110-50-0320, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.08.090, 2004 c 183, 74.20.040, and 74.13.020. WSR 05-06-091, § 388-25-0227, filed 3/1/05, effective 4/1/05.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 110-50-0310	Does children's administration refer foster care cases to the division of child support where good cause exists?
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OTS-4047.2

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-80-0260 What are the consequences of an adopted child being placed in foster care? (~~((1) If a child is on active status~~

~~with Washington state's adoption support program and the department places the child in foster care, the department is required to refer the case to the division of child support and the program may report that good cause exists for not pursuing collection of support payments.~~

(2)) The department may review the adoption support agreement and may renegotiate the amount of any cash payments to the adoptive parent during the child's out-of-home placement.

[WSR 18-14-078, recodified as § 110-80-0260, filed 6/29/18, effective 7/1/18. Statutory Authority: 42 U.S.C. § 671-675, RCW 26.33.340, 74.13A.020, 74.13A.030, 74.13A.040, 74.13A.045, 74.13A.047, 74.13A.060, 74.13A.075, 74.13A.085, 74.13A.100, 74.15.020, 45 C.F.R. § 1356.40. WSR 18-14-008, § 388-27-0265, filed 6/21/18, effective 7/22/18. Statutory Authority: RCW 74.13.031. WSR 01-08-045, § 388-27-0265, filed 3/30/01, effective 4/30/01.]

WSR 22-18-066
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 1, 2022, 11:14 a.m., effective September 1, 2022]

Effective Date of Rule: September 1, 2022.

Purpose: The department is amending WAC 388-400-0060 Who is eligible for aged, blind, or disabled (ABD) cash assistance?, 388-400-0070 Who is eligible for referral to the housing and essential needs (HEN) program?, 388-434-0005 How often does the department review my eligibility for benefits?, 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?, 388-449-0150 When does my eligibility for aged, blind, or disabled (ABD) cash benefits end?, 388-449-0200 Am I eligible for cash assistance for aged, blind, or disabled (ABD) while waiting for supplemental security income (SSI)?, 388-452-0005 Do I have to be interviewed in order to get cash and basic food benefits?, 388-478-0006 The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance, and 388-478-0033 What are the payment standards for aged, blind, or disabled (ABD) cash assistance?

Effective September 1, 2022, individuals aged 21-64 residing in a public mental institution are potentially eligible for the ABD program if they meet all other eligibility criteria. If ABD is approved, individuals are eligible for a clothing, personal maintenance, and necessary incidentals monthly grant up to \$41.62.

This filing supersedes language filed under WSR 22-13-171 for WAC 388-400-0060 only and does not impact any other emergency amendments adopted under WSR 22-13-171.

Citation of Rules Affected by this Order: Amending WAC 388-400-0060, 388-400-0070, 388-434-0005, 388-449-0001, 388-449-0150, 388-449-0200, 388-452-0005, 388-478-0006, and 388-478-0033.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.0052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, and 74.62.030.

Other Authority: Supplemental operating budget (chapter 297, Laws of 2022).

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: Adoption of emergency amendments is necessary to implement ABD eligibility changes, effective September 1, 2022, as funded within the supplemental operating budget (chapter 297, Laws of 2022).

The department is actively taking appropriate steps to adopt the rule as permanent, and filed notice of its intent under WSR 22-17-114.

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 9, 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 9, Repealed 0.

Date Adopted: August 31, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4941.2

AMENDATORY SECTION (Amending WSR 22-17-080 [20-19-006], filed 8/17/22 [9/30/20], effective 9/16/22 [10/4/20])

WAC 388-400-0060 Who is eligible for aged, blind, or disabled (ABD) cash assistance? (1) The aged, blind, or disabled (ABD) cash assistance program provides a state-funded cash stipend and a referral to the housing and essential needs (HEN) program under WAC 388-400-0065 to eligible low-income individuals.

(2) You are eligible for ABD if you:

(a) Are:

(i) At least (~~sixty-five~~) 65 years old;

(ii) Blind as defined by the Social Security Administration (SSA); or

(iii) Likely to be disabled as defined in WAC 388-449-0001 through 388-449-0100; and

(b) Are at least (~~eighteen~~) 18 years old or, if under (~~eighteen~~) 18, a member of a married couple;

(c) Are in financial need according to ABD cash income and resource rules in chapters 388-450, 388-470, and 388-488 WAC. We determine who is in your assistance unit according to WAC 388-408-0060;

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

(e) Meet the citizenship and alien status requirements under WAC 388-424-0015;

(f) Provide a Social Security number as required under WAC 388-476-0005;

(g) Reside in the state of Washington as required under WAC 388-468-0005;

(h) Sign an interim assistance reimbursement authorization agreeing to repay the monetary value of general assistance, disability lifeline, or aged, blind, or disabled benefits subsequently duplicated by supplemental security income benefits as described under WAC 388-449-0200, 388-449-0210, and 388-474-0020; and

(i) Report changes of circumstances as required under WAC 388-418-0005 (~~and~~).

(~~(j) Complete a mid-certification review and provide proof of any changes as required under WAC 388-418-0011.~~)

(3) You aren't eligible for ABD if you:

- (a) Are eligible for temporary assistance for needy families (TANF) benefits;
- (b) Are eligible for state family assistance (SFA) benefits;
- (c) Refuse or fail to meet a TANF or SFA eligibility rule;
- (d) Refuse or fail to pursue federal aid assistance, including but not limited to medicaid, without good cause;
- (e) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-449-0220 without good cause;
- (f) Refuse or fail to follow through with the SSI application as required in WAC 388-449-0200 without good cause;
- (g) Refuse or fail to participate in vocational rehabilitation services as required in WAC 388-449-0225 without good cause;
- (h) Are eligible for supplemental security income (SSI) benefits;
- (i) Are an ineligible spouse of an SSI recipient; or
- (j) Failed to follow a Social Security Administration (SSA) program rule or application requirement and SSA denied or terminated your benefits.

(4) If you reside in a public institution, as defined in WAC 182-500-0050, and meet all other requirements, your eligibility for ABD depends on the type of institution. (~~(A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.)~~)

- (a) You may be eligible for ABD if you are (~~(+)~~) ~~(i) A) a patient in a public ((medical)) institution ((; or)).~~ ~~((ii) A patient in a public mental institution and:~~
 - ~~(A) 65 years of age or older; or~~
 - ~~(B) 20 years of age or younger.~~

~~(5))~~ (b) You aren't eligible for ABD (~~(when)~~) if you are in the custody of or confined in a public (~~(institution))~~ correctional facility such as a state (~~(penitentiary))~~ prison, or city, county, or tribal jail including placement in a work release program.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.030, and 2020 c 322. WSR 20-19-006, § 388-400-0060, filed 9/3/20, effective 10/4/20. Statutory Authority: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090, and 2018 c 48. WSR 18-18-007, § 388-400-0060, filed 8/23/18, effective 9/23/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, and 2013 2nd sp.s. c 10. WSR 13-24-040, § 388-400-0060, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-400-0060, filed 4/27/12, effective 6/1/12.]

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

AMENDATORY SECTION (Amending WSR 20-19-006, filed 9/3/20, effective 10/4/20)

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

- (a) Apply for cash assistance as detailed in WAC 388-406-0010;
 - (b) Complete an interview with the department;
 - (c) Are incapacitated as defined in WAC 388-447-0001 through 388-447-0100;
 - (d) Are at least (~~eighteen~~) 18 years old or, if under (~~eighteen~~) 18, legally emancipated or a member of a married couple;
 - (e) Are in financial need according to income rules in chapter 388-450 WAC and resource requirements in RCW 74.04.005 and chapter 388-470 WAC. We determine who is in your assistance unit according to WAC 388-408-0070;
 - (f) Have countable income, as defined in WAC 388-450-0162, at or below the monthly income limits defined in WAC 388-478-0090;
 - (g) Meet the citizenship and alien status requirements for ABD cash assistance under WAC 388-424-0015;
 - (h) Meet the Social Security number verification requirement for cash assistance under WAC 388-476-0005;
 - (i) Meet the residency requirement for cash assistance under WAC 388-468-0005;
 - (j) Meet verification requirements for cash assistance detailed in WAC 388-490-0005.
 - (k) To remain eligible for HEN referral, you must also:
 - (i) Report changes in your circumstances as required for cash assistance under WAC 388-418-0007; and
 - (ii) Complete and return eligibility reviews we send you under WAC 388-434-0005.
- (2) You are not eligible for referral to the HEN program if you:
- (a) Are eligible for temporary assistance for needy families (TANF) program;
 - (b) Refuse or fail to meet a TANF rule without good cause;
 - (c) Refuse or fail to cooperate in obtaining federal aid assistance, including but not limited to medicaid, without good cause;
 - (d) Refuse or fail to participate in drug or alcohol treatment as required in WAC 388-447-0120;
 - (e) Are eligible for supplemental security income (SSI) benefits and receiving a state supplemental payment (SSP) under WAC 388-474-0012;
 - (f) Are an ineligible spouse of an SSI recipient;
 - (g) Refuse or fail to follow a Social Security Administration (SSA) program rule or application requirement without good cause and SSA denied or terminated your benefits;
 - (h) Are terminated from ABD for refusing or failing to sign an interim assistance reimbursement authorization agreement under WAC 388-400-0060;
 - (i) Are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony as described in WAC 388-442-0010; or
 - (j) Are disqualified from receiving cash assistance due to a conviction related to unlawful practices in obtaining cash assistance as described in WAC 388-446-0005.
- (3) If you reside in a public institution, as defined in WAC 182-500-0050, and meet all other requirements, your eligibility for

referral to the HEN program depends on the type of institution. (~~(A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it.)~~)

(a) You may be eligible for referral to the HEN program if you are ~~((+))~~ a patient in a public institution.

~~((i) A patient in a public medical institution; or~~

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

(b) You aren't eligible for referral to the HEN program if you are in the custody of or confined in a public ~~((institution))~~ correc-tional facility such as a state ~~((penitentiary))~~ prison, or city, county, or tribal jail, including placement in a work release program.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.805, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.62.030, and 2020 c 322. WSR 20-19-006, § 388-400-0070, filed 9/3/20, effective 10/4/20. Statutory Authority: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090, and 2018 c 48. WSR 18-18-007, § 388-400-0070, filed 8/23/18, effective 9/23/18. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.08.025, 74.62.030, and 2013 2nd sp.s. c 10. WSR 13-24-044, § 388-400-0070, filed 11/26/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 21-07-082, filed 3/17/21, effective 4/17/21)

WAC 388-434-0005 How often does the department review my eligi-bility for benefits? (1) If you receive cash assistance, the depart-ment reviews your eligibility for assistance at least once every ~~((twelve))~~ 12 months.

(2) If you receive ABD cash assistance and reside in a public in-stitution, as defined in WAC 182-500-0050, the department reviews your eligibility at least once every 24 months.

~~((2))~~ (3) When it is time for your eligibility review, the de-partment requires you to complete a review. We use the information you provide to determine your eligibility for all assistance programs.

~~((3))~~ (4) If you complete an interview for assistance with a department representative and sign the printed interactive interview declaration (IID) form, you do not have to complete a separate review form.

~~((4))~~ (5) For cash assistance, an eligibility review form or the IID must be dated and signed by both spouses, or both parents of a child in common when the parents live together.

~~((5))~~ (6) We may review your eligibility at any time if we de-cide your circumstances need to be reviewed sooner.

~~((6))~~ (7) At your review, we look at:

(a) All eligibility requirements under WAC 388-400-0005 through 388-400-0030;

(b) Changes since we last determined your eligibility; and

(c) Changes that are anticipated for the next review period.

~~((7))~~ (8) You are responsible for attending an interview if one is required under WAC 388-452-0005.

~~((8))~~ (9) If you do not complete the eligibility review for cash assistance, we consider you to be withdrawing your request for continuing assistance and your cash assistance benefits will end.

~~((9))~~ (10) We will send you written notice as described under chapter 388-458 WAC before assistance is suspended, terminated, or a benefit error is established as a result of your eligibility review.

~~((10))~~ (11) When you need a supplemental accommodation under WAC 388-472-0010, we will help you meet the requirements of this section.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.04.510. WSR 21-07-082, § 388-434-0005, filed 3/17/21, effective 4/17/21. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-005, § 388-434-0005, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 2004 c 54. WSR 04-19-134, § 388-434-0005, filed 9/21/04, effective 10/1/04. Statutory Authority: RCW 74.08.090, 74.09.530, and 2003 c 10. WSR 04-03-019, § 388-434-0005, filed 1/12/04, effective 2/12/04. Statutory Authority: RCW 74.08.090 and 74.04.510. WSR 99-23-083, § 388-434-0005, filed 11/16/99, effective 1/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-434-0005, filed 7/31/98, effective 9/1/98. Formerly WAC 388-522-2230.]

AMENDATORY SECTION (Amending WSR 22-07-020, filed 3/8/22, effective 4/8/22)

WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program? (1) For the purposes of this chapter, the following definitions apply:

(a) "We" and "us" refer to the department of social and health services.

(b) "You" means the applicant or recipient.

(c) "Disabled" means the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which has lasted or can be expected to last for a continuous period of not less than ~~((twelve))~~ 12 months with available treatment or result in death.

(d) "Physical impairment" means a diagnosable physical illness.

(e) "Mental impairment" means a diagnosable mental disorder. We exclude any diagnosis of or related to a substance use disorder.

(2) We determine if you are likely to be disabled when:

(a) You apply for ABD cash benefits;

(b) You become employed;

(c) You obtain work skills by completing a training program; or

(d) We receive new information that indicates you may be employable.

(3) We determine you are likely to be disabled if:

(a) You are determined to meet SSA disability criteria by the Social Security Administration (SSA);

(b) You are determined to meet SSA disability criteria by disability determination services (DDDS) based on the most recent DDDS determination;

(c) The Social Security Administration (SSA) stops your supplemental security income (SSI) payments solely because you are not a citizen;

(d) You are eligible for services through the developmental disabilities administration (DDA) for a medical condition that is expected to last (~~(twelve)~~) 12 months or more or result in death;

(e) You are eligible for long-term care services from the aging and long-term support administration for a medical condition that is expected to last (~~(twelve)~~) 12 months or more or result in death; (~~(e)~~)

(f) You have been civilly committed to eastern or western state hospital;

(g) You have been placed in eastern or western state hospital for an offense you have been found not guilty by reason of insanity; or

~~((f))~~ (h) You are approved through the sequential evaluation process (SEP) defined in WAC 388-449-0005 through 388-449-0100. The SEP is the sequence of five steps. Step 1 considers whether you are currently working. Steps 2 and 3 consider medical evidence and whether you are likely to meet or equal a listed impairment under Social Security's rules. Steps 4 and 5 consider your residual functional capacity and vocational factors such as age, education, and work experience in order to determine your ability to do your past work or other work.

(4) If you have a physical or mental impairment and you are impaired by a substance use disorder and do not meet the other disability criteria in subsections (2) (a) (~~(through)~~) (d) (~~(above)~~) of this section, we decide if you are eligible for ABD cash by applying the sequential evaluation process described in WAC 388-449-0005 through 388-449-0100. You aren't eligible for ABD cash benefits if you are disabled primarily because of a substance use disorder.

(5) In determining disability, we consider only your ability to perform basic work-related activities. "Basic work-related activities" are activities that anyone would be required to perform in a work setting. They consist of: Sitting, standing, walking, lifting, carrying, handling, and other physical functions (including manipulative or postural functions such as pushing, pulling, reaching, handling, stooping, or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work setting, maintaining appropriate behavior, and adapting to changes in a routine work setting.

(6) We determine you are not likely to meet SSI disability criteria if SSA denied your application for SSI or Social Security Disability Insurance (SSDI) based on disability in the last (~~(twelve)~~) 12 months unless:

(a) You file a timely appeal with SSA;

(b) SSA decides you have good cause for a late appeal; or

(c) You give us medical evidence of a potentially disabling condition that SSA did not consider or medical evidence confirming your condition has deteriorated.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.0052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.09.035, 74.09.530, 74.62.030, and 41.05.021. WSR 22-07-020, § 388-449-0001, filed 3/8/22, effective 4/8/22. Statutory Authority: 2014 c 218, 2011 1st sp.s. c 15, RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770,

74.62.030, 41.05.021, 74.09.035, and 74.09.530. WSR 15-03-031, § 388-449-0001, filed 1/12/15, effective 2/12/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, and 2013 2nd sp.s. c 10. WSR 13-24-040, § 388-449-0001, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-449-0001, filed 4/27/12, effective 6/1/12.]

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

WAC 388-449-0150 When does my eligibility for aged, blind, or disabled (ABD) cash benefits end? (1) The maximum period of eligibility for ABD cash is (~~twenty-four~~) 24 months before we must review additional medical evidence. If you remain on ABD cash at the end of the (~~twenty-four~~) 24 month period, we determine your eligibility using current medical evidence.

(2) If your application for SSI is denied:

(a) We review your eligibility for the ABD cash program;

(b) We stop your benefits if you do not provide proof you have filed an appeal with SSA within (~~sixty~~) 60 days of a SSI denial for not being disabled.

(3) We stop your benefits after the final decision on your application for SSI/SSA benefits or if you fail to follow through with any part of the SSI/SSA application or appeals process.

(4) We review your eligibility for the ABD cash program when you discharge from a public institution, as defined in WAC 182-500-0050.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-449-0150, filed 4/27/12, effective 6/1/12.]

AMENDATORY SECTION (Amending WSR 22-07-020, filed 3/8/22, effective 4/8/22)

WAC 388-449-0200 Am I eligible for cash assistance for aged, blind, or disabled (ABD) while waiting for supplemental security income (SSI)? (1) You may receive ABD benefits while you are waiting to receive supplemental security income (SSI) benefits only when you:

(a) Have filed your SSI application with the Social Security Administration (SSA), follow through with SSA directions and requirements to process your application including keeping all interview and consultative examination appointments, and do not withdraw your application;

(b) Agree to assign the initial or reinstated SSI payment to us provided under WAC 388-449-0210;

(c) Are otherwise eligible according to WAC 388-400-0060; and

(d) Meet disability criteria listed in WAC 388-449-0001.

(2) To demonstrate your impairments are disabling despite medical treatment, you must participate in medical treatment for the impair-

ments that keep you from working, unless you have a good cause. Good cause includes, but is not limited to, the following reasons:

(a) The treatment provider has identified a risk that the treatment may cause further limitations or loss of a function or an organ and you are not willing to take that risk;

(b) Treatment is not available because you can't obtain it without cost to you;

(c) You are so fearful of the treatment that your fear could interfere with the treatment or reduce its benefits; or

(d) You practice an organized religion that prohibits the treatment.

(3) If you refuse or fail to participate in medical treatment without good cause, your benefits may end and you will remain ineligible until you reapply and provide proof you are pursuing treatment as recommended.

(4) ABD recipients who reside in a public institution as defined in WAC 182-500-0050, are not subject to the requirements of subsections (1)(a)-(b) of this section. These requirements will be addressed at discharge.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.0052, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.09.035, 74.09.530, 74.62.030, and 41.05.021. WSR 22-07-020, § 388-449-0200, filed 3/8/22, effective 4/8/22. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-449-0200, filed 4/27/12, effective 6/1/12.]

AMENDATORY SECTION (Amending WSR 20-14-090, filed 6/30/20, effective 8/1/20)

WAC 388-452-0005 Do I have to be interviewed in order to get cash and basic food benefits? (1) You or your authorized representative must have an interview with the department:

(a) At initial certification, unless you meet requirements in subsection (9) of this section; and

(b) At least once every (~~twelve~~) 12 months, unless you meet the requirements in subsections (8)(b) or (9) of this section.

(2) You will have just one interview even if you are applying for or are having a review for benefits from more than one program.

(3) We hold interviews either in person or over the phone.

(4) If we do not interview you on the same day that we receive your application, we will schedule an interview appointment for you or have you contact us by phone during our business hours to complete your interview.

(5) If we schedule an interview, we will set your appointment to allow you at least (~~ten~~) 10 days after the interview to provide needed verification:

(a) Before the end of the (~~thirty~~) 30-day processing period for applications; or

(b) Before your certification period ends for eligibility reviews or recertifications.

(6) If you miss your first interview and ask for another interview within (~~thirty~~) 30 days of the date you applied for benefits,

we schedule a second interview or have you call us and complete the interview over the phone.

(7) If you must have an interview for benefits, you or someone who can give us the information we need about your AU must participate in the interview. You may ask any person you choose to help with your interview.

(8) For basic food only:

(a) Your authorized representative as described in WAC 388-460-0005 may take your place during your interview.

(b) We may waive the interview requirement at recertification if the household meets the elderly simplified application project (ESAP) criteria:

(i) All members of the household are elderly or disabled, as defined in WAC 388-400-0040;

(ii) No mandatory or applying household members have earned income;

(iii) The paper or electronic eligibility review is complete;

(iv) The household has provided all necessary verification or the verification is available through interfaces available to the department; and

(v) No information provided is unclear or incomplete requiring a request for verification.

(9) For ABD cash assistance, we may waive the interview requirement at application and recertification if you reside in a public institution, as defined in WAC 182-500-0050.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090. WSR 20-14-090, § 388-452-0005, filed 6/30/20, effective 8/1/20. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-006, § 388-452-0005, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.120, 74.08A.903, and 7 C.F.R. 273.9. WSR 10-01-165, § 388-452-0005, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510. WSR 04-10-102, § 388-452-0005, filed 5/4/04, effective 7/1/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 7 C.F.R. 273.2(e). WSR 03-18-113, § 388-452-0005, filed 9/2/03, effective 11/1/03. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090. WSR 02-14-023, § 388-452-0005, filed 6/21/02, effective 7/1/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530. WSR 01-14-060, § 388-452-0005, filed 6/29/01, effective 8/1/01; WSR 00-22-087, § 388-452-0005, filed 10/31/00, effective 12/1/00. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530 and 42 C.F.R. 435.907. WSR 99-11-075, § 388-452-0005, filed 5/18/99, effective 6/18/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-452-0005, filed 7/31/98, effective 9/1/98. Formerly WAC 388-504-0420.]

AMENDATORY SECTION (Amending WSR 20-20-007, filed 9/24/20, effective 10/25/20)

WAC 388-478-0006 The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance. Payment standards for assistance units (AU) in certain facilities and medical

institutions are based on the need for clothing, personal maintenance, and necessary incidentals (CPI).

(1) The CPI (~~cash assistance~~) payment standard for recipients of cash assistance is:

(a) (~~Forty one dollars and 62 cents~~) \$41.62 for eligible persons in medical institutions as defined in WAC 182-500-0050; or

(b) (~~Thirty eight dollars and 84 cents~~) \$38.84 for eligible persons in one of the following facilities as defined in WAC 182-513-1100:

(i) Adult residential care (ARC) facility;

(ii) Adult residential rehabilitation centers (ARRC);

(iii) Adult residential treatment facility (ARTF);

(iv) Enhanced adult residential care facility (EARC); or

(v) Developmental disability administration (DDA) group home facilities.

(2) The CPI payment standard for recipients of ABD cash assistance who reside in a public institution as defined in WAC 182-500-0050, is \$41.62.

~~((2))~~ (3) When a person's living situation is other than (the medical institutions defined in WAC 182-500-0050 and group facilities defined in WAC 182-513-1100) what is listed in subsections (1) or (2) of this section, refer to the following:

(a) WAC 388-478-0020 for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA);

(b) WAC 388-478-0027 for pregnant women assistance (PWA); or

(c) WAC 388-478-0033 for aged, blind, or disabled (ABD).

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.08A.120, 74.08A.230, 74.62.030 and 2020 c 357. WSR 20-20-007, § 388-478-0006, filed 9/24/20, effective 10/25/20. Statutory Authority: RCW 74.04.005, 74.04.770, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, and 74.62.030. WSR 15-12-021, § 388-478-0006, filed 5/22/15, effective 7/1/15.]

AMENDATORY SECTION (Amending WSR 22-16-082, filed 8/1/22, effective 9/1/22)

WAC 388-478-0033 What are the payment standards for aged, blind, or disabled (ABD) cash assistance? (1) The maximum monthly payment standards for aged, blind, or disabled (ABD) cash assistance program assistance units are:

Assistance Unit Size	Payment Standard
1	\$417
2	\$528

(2) ABD clothing, personal maintenance, and necessary incidentals (CPI) payment standards are listed in WAC 388-478-0006.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.08A.120, 74.08A.230, 74.62.030 and 2020 c 357. WSR 20-20-007, § 388-478-0033, filed 9/24/20, effective 10/25/20.]

Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-478-0033, filed 4/27/12, effective 6/1/12.]

WSR 22-18-070
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-188—Filed September 1, 2022, 4:51 p.m., effective September 2, 2022]

Effective Date of Rule: September 2, 2022.

Purpose: The purpose of this emergency rule is to close recreational salmon and steelhead fisheries in the Columbia River from the mouth to Bonneville Dam.

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

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

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

Reasons for this Finding: This emergency rule is needed because the recreational fishery has exceeded their allocation for impacts on lower river 'tule' Chinook and in order to avoid exceeding the total allowable impacts rates. Staff will continue to monitor progress of ongoing fisheries, with an expectation to manage within the allowable Endangered Species Act (ESA) impact rates and per Washington Fish and Wildlife Policy C-3630. This rule conforms Washington state rules with Oregon state rules and is consistent with compact action on September 1, 2022.

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

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

This rule also carries forward Columbia River salmon seasons previously set in WSR 22-15-033, filed July 13, 2022.

There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: September 1, 2022.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000Z Freshwater exceptions to statewide rules—Columbia River. Effective September 2, 2022, until further notice, the provisions of WAC 220-312-060 regarding recreational salmon and steelhead seasons from a true north-south line through Buoy 10 to Bonneville Dam and from Wells Dam to Chief Joseph Dam, shall be modified during the dates listed and as described below. All year-round Closed Waters areas remain in effect. Other provisions of WAC 220-312-060 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) From a true north-south line through Buoy 10 upstream to a point 600 feet below the new Bonneville Dam Powerhouse:

Effective September 2, 2022, until further notice: Salmon and steelhead: Closed.

(2) From Rock Island Dam to Boundary 400 feet below the Wells Dam spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side): Salmon:

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

(3) From Wells Dam to Hwy. 173 Bridge at Brewster: Salmon:

Effective immediately, through September 30, 2022: Daily limit 6, including no more than 2 adult hatchery Chinook and no more than 4 sockeye. Release wild adult Chinook and coho.

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

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

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REPEALER

The following section of Washington Administrative Code is repealed, effective September 2, 2022:

WAC 220-312-06000Y Freshwater exceptions to statewide rules—Columbia. (22-186)

WSR 22-18-078
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-189—Filed September 2, 2022, 4:22 p.m., effective September 2, 2022, 4:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule opens additional recreational crab harvest seasons in Marine Area 7N on September 6 and 7, 2022.

Citation of Rules Affected by this Order: Repealing WAC 220-330-04000E; and amending WAC 220-330-040.

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 opens additional recreational crab harvest opportunity in Marine Area 7N on September 6 and 7, 2022. Over the past several seasons, Area 7 north crabbers have consistently lost opportunity as softshell trends extend further into traditional open dates causing truncated seasons. These additional days of recreational crabbing will maintain the historical season length in this area. It is in the interest of opportunity and public well-being to open these additional dates as harvestable crab in hard shell condition are available. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: September 2, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-04000F Crab—Areas and seasons—Personal use. Notwithstanding the provisions of WAC 220-330-040, effective immediately, through September 30, 2022, it is unlawful to fish for crab for personal use in Puget Sound in all waters of Marine Areas, 4 east of the Bonilla-Tatoosh line, 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12 and 13, except as provided herein:

(1) Marine Areas 4 east of the Bonilla-Tatoosh line, 5, 6, 8-1, 8-2, and 9: Effective immediately, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(2) Those waters of Marine Area 7 south and west of a line projected from Village Point, Lummi Island, through the navigation buoy just east of Matia Island, thence to the buoy at Clements Reef, thence to the easternmost point of Patos Island, thence running along the northern shore of Patos Island to the westernmost point of Patos Island, thence true west to the international boundary and south of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective immediately, through 11:59 p.m. September 30, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(3) Those waters of Marine Area 7 north and east of a line projected from Village Point, Lummi Island through the navigation buoy just east of Matia Island thence to the buoy at Clements Reef thence to the easternmost point of Patos Island, running along the northern shoreline of Patos Island and from the westernmost point of Patos Island true west to the international boundary and north of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island: Effective 12:01 a.m. August 18, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays. It will also be permissible to fish for crab for personal use on September 6 and 7, 2022.

(4) Marine Area 10: Effective immediately, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Sundays and Mondays.

(5) Marine Area 11: Closed until further notice.

(6) The portion of Marine Area 12 north of a line projected due east from Ayock Point: Effective immediately, through 11:59 p.m. September 5, 2022, it is permissible to fish for crab for personal use on Thursdays, Fridays, Saturdays, Sundays and Mondays.

(7) The portion of Marine Area 12 south of a line projected due east from Ayock Point: Closed until further notice.

(8) Marine Area 13: Closed until further notice.

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-330-04000E Crab—Areas and seasons—Personal use.

WSR 22-18-090
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Division of Vocational Rehabilitation)

[Filed September 7, 2022, 7:42 a.m., effective September 8, 2022]

Effective Date of Rule: September 8, 2022.

Purpose: The proposal removes references in WAC to post-employment services provided by the division of vocational rehabilitation (DVR) as being available to the customer post exit. The department filed a CR-101 preproposal under WSR 22-12-030 to begin the permanent adoption process.

Citation of Rules Affected by this Order: Amending WAC 388-891A-0610 and 388-891A-0890.

Statutory Authority for Adoption: RCW 34.05.350 (1)(b), 74.29.020(8), and 74.29.050.

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: DVR received recent guidance from the rehabilitation services administration (RSA) that clarifies RSA's interpretation of when vocational rehabilitation agencies may provide post-employment services under the Rehabilitation Act. RSA's interpretation is inconsistent with how Washington DVR currently provides post-employment services and how it is defined in WAC. Provision of post-employment services is subject to receipt of federal funding. Continuing to apply WAC 388-891A-0610 and 388-891A-0890 as currently written will place DVR out of compliance with federal guidance and could jeopardize its ability to receive federal funding. If DVR chose not to pursue an emergency rule it could be interpreted to be in violation of RCW 74.29.050.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, 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 2, Repealed 0.

Date Adopted: September 7, 2022.

Katherine I. Vasquez
Rules Coordinator

SHS-4925.1

AMENDATORY SECTION (Amending WSR 18-12-035, filed 5/29/18, effective 6/30/18)

WAC 388-891A-0610 How are individuals selected for services when DVR is operating under an order of selection? When DVR is operating under an order of selection, individuals are selected for services as follows:

(1) At the time you are determined eligible for VR services, a DVR counselor assigns you to a priority category based on the severity of your disability.

(2) The priority categories are defined in WAC 388-891A-0620 through 388-891A-0660.

(3) As resources become available for DVR to serve additional individuals, DVR selects names from the waiting list in the priority category being served at that time.

(4) Within a priority category, the date you applied for VR services determines the order in which you are selected from the waiting list.

(5) DVR may provide you specific services or equipment without requiring that you wait for services under an order of selection if:

(a) You are at immediate risk of losing your job in a competitive integrated setting for reasons related to your disability; and

(b) You require specific services or equipment in the very near future that will enable you to keep your job.

~~((6) If you have successfully achieved an employment outcome as described in WAC 388-891A-1310, are currently employed, and require post-employment services, you are not required to wait for services under an order of selection.))~~

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0610, filed 5/29/18, effective 6/30/18.]

AMENDATORY SECTION (Amending WSR 18-12-035, filed 5/29/18, effective 6/30/18)

WAC 388-891A-0890 What are post-employment services? Post-employment services include one or more vocational rehabilitation services provided if:

(1) ~~((Your case was closed because y))~~ You achieved ~~((an))~~ employment ~~((outcome))~~;

(2) Your rehabilitation needs are limited in scope and duration; and

(3) You need post-employment services to maintain, advance in, or regain employment that is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

[Statutory Authority: RCW 74.29.020(8) and 34 C.F.R., Parts 361, 363, 397. WSR 18-12-035, § 388-891A-0890, filed 5/29/18, effective 6/30/18.]

WSR 22-18-096
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-190—Filed September 7, 2022, 9:05 a.m., effective September 7, 2022, 9:05 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set a closure date for the 2022 white sturgeon fishery in Lake Roosevelt.

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

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

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

Reasons for this Finding: This emergency rule is needed to set a closure date for the 2022 Lake Roosevelt white sturgeon fishery. The Washington department of fish and wildlife anticipates harvest and fishery impacts will have been achieved for the season by September 30, 2022. Fishery managers will evaluate the 2022 Lake Roosevelt white sturgeon catch and harvest prior to establishing rules for the 2023 season. 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 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: September 7, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000L Freshwater exceptions to statewide rules—Eastside. Effective immediately, through September 30, 2022, the following provisions of WAC 220-312-050 regarding recreational sturgeon seasons and harvest rules for Lake Roosevelt shall be as described below. All other provisions of WAC 220-312-050 not addressed herein, or unless otherwise amended, remain in effect:

It is permissible to fish for sturgeon in waters of Lake Roosevelt from Grand Coulee Dam upstream to the China Bend Boat Ramp (including the Spokane River from Highway 25 Bridge upstream to 400' be-

low Little Falls Dam, Colville River upstream to Meyers Falls and the Kettle River upstream to Barstow Bridge):

(a) Daily limit: 1 sturgeon; minimum fork length 50 inches, maximum fork length 63 inches. Annual limit 2 sturgeon. Anglers must cease fishing for the day after obtaining a daily limit and for the season after the annual limit has been taken.

(b) Anglers may fish for sturgeon with two poles with the purchase of a Two-pole endorsement.

(c) Only one single-point barbless hook and bait per rod is allowed.

(d) Night closure is in effect for sturgeon.

(e) All other statewide rules for white sturgeon apply

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REPEALER

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

WAC 220-312-05000L Freshwater exceptions to statewide rules—Eastside. (22-74)

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

WAC 220-312-05000U Freshwater exceptions to statewide rules—Eastside. (22-190)

WSR 22-18-099
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-191—Filed September 7, 2022, 9:54 a.m., effective September 7, 2022, 9:54 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The provisions of this emergency rule:

WAC 220-340-52000E: Closes Subarea 23A-C, MSFS [MFSF] Catch Area 23B, Subarea 26B-2, and MFSF Catch Area 26D immediately; Shrimp Management Region 5 on September 10, 2022; and Shrimp Management Region 2E on September 11, 2022, to commercial spot shrimp pot harvest effective one hour after official sunset on the respective dates.

WAC 220-340-54000D: Closes [Subregion] 1B/22A; [Catch Area] 21A to commercial shrimp trawl harvest effective one hour after official sunset on September 10, 2022.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000D and 220-340-54000C; and 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: This emergency rule is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound. This rule both allows harvesters to 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 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: August 7, 2022.

Kelly Susewind
Director

NEW SECTION**WAC 220-340-52000E Commercial shrimp pot fishery—Puget Sound.**

Notwithstanding the provisions of WAC 220-340-520, immediately, 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 Harvest:

(a) Spot shrimp harvest is permitted as indicated in the following table opening one hour before official rise until further notice. Any closures take effect one hour after official sunset.

Geographical Management Unit (WAC 220-320-140)	Open period
Subregion 1A	Immediately, until September 15
Subregion 1B	Closed
Subregion 1C	Immediately, until September 15
Region 2E	Immediately, until September 11
Region 2W	Closed
Subarea 23A-E	Immediately, until September 15
Subarea 23A-W	Closed
Subarea 23A-C and MSFS Catch Area 23B	Closed
Subarea 23A-S and MSFS Catch Area 23D	Immediately, until September 15
MFSF Catch Area 23C	Immediately, until September 15
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	Immediately, until September 15
Discovery Bay Shrimp District	Closed
MFSF 29 (Straits - Neah Bay)	Immediately, until September 15
Subarea 26B-1 and MFSF Catch Area 26C	Closed
Subarea 26B-2	Closed
Region 5	Immediately, until September 10
MFSF Catch Area 26D	Closed
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed

(b) It is unlawful to harvest spot shrimp from more than one Geographical Management Unit listed in 2(a) in a single day with the following exceptions:

(i) Spot shrimp may be harvested from subregion 1A and subregion 1C on the same day.

(ii) Spot shrimp may be harvested from subarea 23A-E, and either 23A-W, 23A-C or MFSF Catch Area 23B on the same day.

(3) Non-spot shrimp pot harvests:

(a) Non-spot shrimp pot harvest is permitted as indicated in the following table opening one hour before official rise until further notice. Any closures take effect one hour after official sunset.

Geographical Management Unit (WAC 220-320-140)	Open period
Subregion 1A	Closed
Subregion 1B	Closed
Subregion 1C	Immediately, through October 15, 2022
Region 2E	Closed
Region 2W	Immediately, through October 15, 2022
Region 3, not including Discovery Bay Shrimp District	Immediately, through October 15, 2022
Discovery Bay Shrimp District	Immediately, through October 15, 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, Region 3, and Discovery Bay Shrimp District.

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

(f) It is unlawful to harvest non-spot shrimp in more than one Geographical Management unit listed in subsection 3(a) in a single day with the following exceptions:

(i) Non-spot shrimp may be harvested from more than one subregion of Region 1 on the same day.

(ii) Non-spot shrimp may be harvested from Discovery Bay Shrimp District and Region 3 on the same day.

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

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-540, effective one hour before official sunset on the dates listed in Table 1(a, 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:

(1) 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))	Open period
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 immediately, through October 15, 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 immediately, through September 10, 2022
Subarea 23A East and MFSF Catch Areas 23B, 25A	Open immediately, through September 30, 2022
Subarea 23A West	Open immediately, through September 30, 2022
MFSF Catch Area 23C	Open immediately, through September 30, 2022
MFSF Catch Area 29	Open immediately, through September 30, 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))	Open period
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 immediately, through September 10, 2022

Geographic Area Description (WAC 220-320-140(3))	Open period
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 immediately, through September 10, 2022
The remaining portions of Catch Areas 22A within subregion 1B not described above.	Immediately, through September 10, 2022
The remaining portions of Catch Areas 20B within subregion 1B not described above.	Immediately, through October 15, 2022

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-340-52000D Commercial shrimp pot fishery—Puget Sound. (22-179)
- WAC 220-340-54000C Commercial shrimp trawl fishery—Puget Sound (22-162).