

WSR 20-10-001
EMERGENCY RULES
DEPARTMENT OF HEALTH

[Filed April 22, 2020, 3:49 p.m., effective April 22, 2020, 3:49 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-834-050 Examination requirements for licensure as a midwife, 246-834-060 Initial application requirements for licensure as a midwife, and 246-834-160 Student midwife permit. In response to the coronavirus disease 2019 (COVID-19) pandemic, the department of health (department) is amending requirements for examination for midwifery applicants. Currently, applicants must take and pass three examinations to become a licensed midwife: (1) The national examination given by the North American Registry of Midwives (NARM); (2) the jurisprudence given by the department; and (3) the state licensing examination given by the department. This emergency rule removes the requirement for the NARM since it is not currently administered. Also, the department is amending the passing score for the Washington state licensure exam from eighty percent to seventy-five percent.

Citation of Rules Affected by this Order: Amending WAC 246-834-050, 246-834-060, and 246-834-160.

Statutory Authority for Adoption: RCW 18.50.135.

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

Reasons for this Finding: The state of emergency in Washington state due to the COVID-19 pandemic has led to a shortage of midwives as expectant families are moving away from planned hospital births. Washington midwives have seen a significant uptick, both in late transfers and planned out of hospital births, as the population shifts toward midwifery care.

The NARM examination is given at testing sites that are closed due to shelter in place and social distancing practices. Maintaining the NARM as a licensing requirement would essentially put a stop to licensing midwives when that profession is greatly needed.

The midwifery program will maintain the requirement of the jurisprudence examination and the state examination which tests the scientific and practical fitness of candidates to practice midwifery. Also, amending the passing score for the state examination to seventy-five percent will allow a greater number of candidates to successfully pass the examination on the first attempt, while maintaining quality in licensing applicants. Approximately sixty-five percent of candidates pass the state examination on the first attempt. Amending the passing score to seventy-five percent would allow for approximately eighty percent of candidates to successfully pass the examination on their first attempt, thus allowing qualified individuals to become licensed in a more timely fashion.

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

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

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

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

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

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

Date Adopted: April 22, 2020.

Jessica Todorovich
 Chief of Staff
 for John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

WAC 246-834-050 Examination requirements for licensure as a midwife. An applicant for midwifery licensure shall successfully pass:

(1) ~~((The midwifery examination offered by the North American Registry of Midwives (NARM);~~

~~((2)))~~ The Washington state licensure examination with a minimum passing score of ~~((eighty))~~ seventy-five percent; and

~~((3)))~~ (2) The midwifery jurisprudence examination with a passing score of one hundred percent, as offered by the department.

AMENDATORY SECTION (Amending WSR 19-15-005, filed 7/5/19, effective 8/5/19)

WAC 246-834-060 Initial application requirements for licensure as a midwife. (1) An applicant for a midwife license shall submit to the department the following:

(a) Initial application on forms provided by the department.

(b) Fees required in WAC 246-834-990.

(c) Proof of high school graduation, or its equivalent.

(d) Proof of at least three years of midwifery training, per RCW 18.50.040 (2)(a), unless the applicant qualifies for a reduced academic period.

(e) Proof of completion of seven clock hours of HIV/AIDS education as required in chapter 246-12 WAC, Part 8.

(f) Proof of successful completion of the midwifery jurisprudence exam, as offered by the department.

(2) In addition to the requirements in subsection (1) of this section, an applicant for a midwife license shall also: ~~((a)))~~ Have transcripts sent directly to the department from the applicant's midwifery school demonstrating that the applicant has received a certificate or diploma in midwifery. An applicant applying under WAC 246-834-065 or 246-834-066 may be exempted from this requirement.

~~((b) Have verification of passing the North American Registry of Midwives (NARM) examination. Results must be sent directly to the department from NARM.))~~

(3) Once all application requirements in this section are met, and additional requirements in WAC 246-834-065 or 246-834-066 if applicable, the department will schedule the applicant for the Washington state specific component exam.

AMENDATORY SECTION (Amending WSR 17-15-024, filed 7/7/17, effective 8/7/17)

WAC 246-834-160 Student midwife permit. (1) A student midwife permit may be issued to any individual who has:

(a) Successfully completed an accredited midwifery program as specified in WAC 246-834-135, or is foreign trained as specified in WAC 246-834-065(1);

(b) Obtained a minimum period of midwifery training of at least three academic years as required by WAC 246-834-140;

(c) Met the minimum education requirements required in WAC 246-834-140 (2)(a) and (b);

(d) Documentation of undertaking the care of not less than fifty women in each of the prenatal, intrapartum and early postpartum periods as required by RCW 18.50.040 (2) (c); and

~~(e) ((Satisfactorily completed the NARM examination required by WAC 246-834-050; and~~

~~(f))~~ Filed a completed application for student midwife permit under WAC 246-834-060 and accompanied by a non-refundable fee as specified in WAC 246-834-990.

(2) The student midwife permit authorizes the individuals to practice and observe women in the intrapartum period under the supervision of a licensed midwife under 18.50 RCW, an allopathic physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW or certified nurse midwife under chapter 18.79 RCW.

(3) Once all application requirements including clinical components are completed the applicant may be eligible to sit for the Washington state licensure examination.

WSR 20-10-005

EMERGENCY RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed April 23, 2020, 1:34 p.m., effective April 23, 2020, 1:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is temporarily amending portions of the rules listed below to assure [ensure] assisted living facilities are not significantly impeded during the hiring process due to an administrator's inability to obtain a certificate of completion of a recognized administrator training as referenced in WAC 388-78A-2521. This will help to increase the number of long-term care administrators necessary to provide essential services to some of Washington's most vulnerable adults during the outbreak of COVID-19. The current rules require administrator training prior to assuming admin-

istrator duties or within six months of beginning duties for administrators meeting additional educational requirements. Currently, applicants for assisted living facility administrator positions are unable to obtain the required training because that training is no longer being provided due to the COVID-19 pandemic. This circumstance is expected to exacerbate demand for long-term care administrators when the pandemic has already significantly reduced the availability of long-term care administrators in the state in recent weeks.

Citation of Rules Affected by this Order: Amending WAC 388-78A-2524(1), 388-78A-2525(1), and 388-78A-2526(1).

Statutory Authority for Adoption: Chapter 18.20 RCW.

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

Reasons for this Finding: The threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in congregate settings, such as assisted living facilities. Administrator training is part of the hiring process and must be completed within a designated timeframe. Currently administrator[s] are unable to obtain the required training because that training is no longer being provided due to the COVID-19 pandemic. This circumstance is expected to exacerbate demand for long-term care administrators when the pandemic has already significantly reduced the availability of long-term care workers in the state in recent weeks.

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

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

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

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

Date Adopted: April 20, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2524 Administrator qualifications— Certification of training, and three years experience. Prior to assuming duties as a boarding home administrator, the individual has (~~met the following qualifications:~~

~~(1) Obtained certification of completing a recognized administrator training as referenced in WAC 388-78A-2521; and~~

~~(2) Has~~) three years paid experience:

~~((a)) (1) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or~~

~~((b)) (2) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living.~~

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2525 Administrator qualifications—Associate degree, certification of training, and two years experience. The individual holds an associate degree in a related field of study such as health, social work, or business administration and meets the qualifications listed in either subsection (1)~~((;))~~ or (2) ~~((or (3)))~~ of this section:

~~(1) ((Obtains certification of completing a recognized administrator training course as referenced in WAC 388-78A-2521 within six months of beginning duties as the administrator; or~~

~~(2))) Has two years paid experience:~~

~~(a) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or~~

~~(b) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; or~~

~~((3)) (2) Has completed a qualifying administrator training program supervised by a qualified administrator according to WAC 388-78A-2530.~~

AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2526 Administrator qualifications—Bachelor's degree, certification of training, and one year experience. The individual holds a bachelor's degree in a related field of study such as health, social work, or business administration and meets the qualifications listed in either subsection (1)~~((;))~~ or (2) ~~((or (3)))~~ of this section.

~~(1) ((Obtains certification of completing a recognized administrator training course and referenced in WAC 388-78A-2521 within six months of beginning duties as the administrator; or~~

~~(2))) Has one year paid experience:~~

(a) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or

(b) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, assisted living facility, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; or

~~((3)) (2) Has completed a qualifying administrator training program supervised by a qualified administrator according to WAC 388-78A-2530.~~

WSR 20-10-011

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed April 24, 2020, 3:26 p.m., effective April 24, 2020, 3:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is filing this emergency rule to meet the Centers for Medicare and Medicaid (CMS) milestone requirement 3 regarding the agency's Substance Use Disorder (SUD) Waiver Implementation Plan. Milestone 3 requires the agency adopt rules by July 1, 2020, reflecting the requirement that residential treatment facilities offer medication assisted treatment access on-site or facilitate off-site access.

Citation of Rules Affected by this Order: New WAC 182-502-0016A.

Statutory Authority for Adoption: RCW 71.24.035 and 71.24.520.

Other Authority: 42 U.S.C. 1315, Sec. 1115; RCW 71.24.585.

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: The agency is filing an emergency rule to ensure continued federal funding by meeting CMS milestone requirement 3 regarding the agency's SUD Waiver Implementation Plan. Milestone 3 requires the agency adopt rules by July 1, 2020, reflecting the requirement that residential treatment facilities offer medication assisted treatment access on-site or facilitate off-site access. The agency is filing this emergency rule while proceeding with the permanent rule-making process.

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

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

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

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

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

Date Adopted: April 24, 2020.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-502-0016A Continuing requirements—Residential treatment facilities. In addition to the requirements in WAC 182-502-0016, to continue to provide services for eligible clients and be paid for those services, residential treatment facilities (as defined in chapter 246-337 WAC) must:

(1) Not deny entry or acceptance of clients into the facility solely because the client is prescribed medication to treat substance use disorders (SUD);

(2) Facilitate access to medications specific to the client's diagnosed clinical needs, including medications used to treat SUD;

(3) Not mandate titration of any prescribed medications to treat any SUD as a condition of clients receiving treatment or continuing to receive treatment. Decisions concerning medication adjustment must be coordinated with the prescribing provider and be based on medical necessity; and

(4) Coordinate care upon discharge for client to continue medications specific to a client's diagnosed clinical needs, including medications used to treat SUD. See RCW 71.24.-585.

WSR 20-10-014

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed April 24, 2020, 4:43 p.m., effective April 24, 2020, 4:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-840-010, 246-840-125, 246-840-210, 246-840-240, 246-840-361, 246-840-365, 246-840-367, 246-840-533, 246-840-534, 246-840-840, 246-840-930, and 246-841-405, licensed practical nurse (LPN), registered nurse (RN), and advanced registered nurse practitioner (ARNP) specific regulatory requirements.

The nursing care quality assurance commission is adopting emergency rules in response to the coronavirus disease (COVID-19). These rules apply to the specific regulatory requirements for LPNs, RNs and ARNPs. The amendments remove specific barriers that nurses face to providing care in response to COVID-19. Waiving the requirement for continuing education removes a barrier for nurses with a retired active license and will allow them to immediately begin working. Waiving the restriction that ARNPs with an inactive or expired license must complete clinical practice hours

removes a barrier to rejoining the health care workforce. Allowing LPN students to practice as nursing technicians addresses the demand for more healthcare professionals in the workforce. Amending language to add clarification to the preceptor rules and simulation rules eliminates current obstacles in nursing education to address the demand for more healthcare professionals. Amending the requirements for nurse delegation to waive requirements and streamline the process will remove barriers for nurses to complete high demand duties. More health care professionals will [be] available to respond to current demands because of these changes.

Citation of Rules Affected by this Order: Repealing WAC 246-840-210, 246-840-240 and 246-840-361; and amending WAC 246-840-010, 246-840-125, 246-840-365, 246-840-367, 246-840-533, 246-840-534, 246-840-840, 246-840-930, and 246-841-405.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.050, 18.79.110, 18.79.260, and 18.79.340.

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 immediate amendment of these existing rules is necessary for the preservation of public health, safety, and general welfare. Essential functions including increasing the availability of health care professionals must continue while taking necessary measures to help treat and prevent the spread of COVID-19. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to protecting immediate public interests.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 9, Repealed 3.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 3.

Date Adopted: April 24, 2020.

Paula Meyer, RN, MSN, FRE
Executive Director

AMENDATORY SECTION (Amending WSR 16-08-042, filed 3/30/16, effective 4/30/16)

WAC 246-840-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced clinical practice" means practicing at an advanced level of nursing in a clinical setting performing direct patient care.

(2) "Advanced nursing practice" means the delivery of nursing care at an advanced level of independent nursing practice that maximizes the use of graduate educational preparation, and in-depth nursing knowledge and expertise in such roles as autonomous clinical practitioner, professional and clinical leader, expert practitioner, and researcher.

(3) "Advanced registered nurse practitioner (ARNP)" is a registered nurse (RN) as defined in RCW 18.79.050, 18.79.240, 18.79.250, and 18.79.400 who has obtained formal graduate education and national specialty certification through a commission approved certifying body in one or more of the designations described in WAC 246-840-302, and who is licensed as an ARNP as described in WAC 246-840-300. The designations include the following:

- (a) Nurse practitioner (NP);
- (b) Certified nurse midwife (CNM);
- (c) Certified registered nurse anesthetist (CRNA); and
- (d) Clinical nurse specialist (CNS).

(4) "Associate degree registered nursing education program" means a nursing education program which, upon successful completion of course work, that includes general education and core nursing courses that provide a sound theoretical base combining clinical experiences with theory, nursing principles, critical thinking, and interactive skills, awards an associate degree in nursing (ADN) to prepare its graduates for initial licensure and entry level practice as an RN.

(5) "Bachelor of science degree registered nursing education program" means a nursing education program which, upon successful completion of course work taught in an associate degree nursing education program, as defined in subsection (28) of this section, plus additional courses physical and social sciences, nursing research, public and community health, nursing management, care coordination, and the humanities, awards a bachelor of science in nursing (BSN) degree, to prepare its graduates for a broader scope of practice, enhances professional development, and provides the nurse with an understanding of the cultural, political, economic, and social issues that affect patients and influence health care delivery.

(6) "Certifying body" means a nongovernmental agency using predetermined standards of nursing practice to validate an individual nurse's qualifications, knowledge, and practice in a defined functional or clinical area of nursing.

(7) "Client advocate" means a licensed nurse who actively supports client's rights and choices, including the client's right to receive safe, high quality care, and who facilitates the client's ability to exercise those rights and choices by providing the client with adequate information about their care and options.

(8) "Commission" means the Washington state nursing care quality assurance commission.

(9) "Competency" means demonstrated knowledge, skill and ability in the practice of nursing.

(10) "Conditional approval" is the approval given a nursing education program that has not met the requirements of the law and the rules of the commission. Conditions are spec-

ified that must be met within a designated time to rectify the deficiency.

(11) "Dedicated education unit" means a clinical learning experience within a health care facility, as part of the curriculum of a nursing education program.

(12) "Delegation" means the licensed nurse transfers the performance of selected nursing tasks to competent individuals in selected situations. The nurse delegating the task is responsible and accountable for the nursing care of the client. The nurse delegating the task supervises the performance of the unlicensed person. Nurses must follow the delegation process following the RCW 18.79.260. Delegation in community and in-home care settings is defined by WAC 246-840-910 through 246-840-970.

(13) "Distance education" or "distance learning" means instruction offered by any means where the student and faculty are in separate physical locations. Teaching methods may be synchronous, where the teacher and student communicate at the same time, or asynchronous, where the student and teacher communicate at different times, and shall facilitate and evaluate learning in compliance with nursing education rules.

(14) "Full approval" of a nursing education program is the approval signifying that a nursing program meets the requirements of the law and the rules of the commission.

(15) "Good cause" as used in WAC 246-840-860 for extension of a nurse technician registration means that the nurse technician has had undue hardship such as difficulty scheduling the examination through no fault of their own; receipt of the examination results after thirty days after the nurse technician's date of graduation; or an unexpected family crisis which caused him or her to delay sitting for the examination. Failure of the examination is not "good cause."

(16) "Good standing" as applied to a nursing technician, means the nursing technician is enrolled in a registered nursing program approved by the commission and is successfully meeting all program requirements.

(17) "Health care professional" means the same as "health care provider" as defined in RCW 70.02.010(18).

(18) "Home state" is defined as where the nursing education program has legal domicile.

(19) "Host state" is defined as the state jurisdiction outside the home state where a student participates in clinical experiences or didactic courses.

(20) "Immediately available" as applied to nursing technicians, means that an RN who has agreed to act as supervisor is on the premises and is within audible range and available for immediate response as needed which may include the use of two-way communication devices which allow conversation between the nursing technician and an RN who has agreed to act as supervisor.

(a) In a hospital setting, the RN who has agreed to act as supervisor is on the same patient care unit as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(b) In a nursing home or clinic setting, an RN who has agreed to act as supervisor is in the same building and on the same floor as the nursing technician and the patient has been assessed by the RN prior to the delegation of duties to the nursing technician.

(21) "Initial approval" of nursing education program is the approval status conferred by the commission to a new nursing program based on its proposal prior to the graduation of its first class.

(22) "Licensed practical nurse (LPN)" is a nurse licensed as defined in RCW 18.79.030(3), with a scope of practice defined in RCW 18.79.020 and 18.79.060.

(23) "Limited educational authorization" is an authorization to perform clinical training when enrolled as a student through a commission approved refresher course. This authorization does not permit practice for employment.

(24) "Minimum standards of competency" means the knowledge, skills, and abilities that are expected of the beginning practitioner.

(25) "National nursing education accreditation body" means an independent nonprofit entity, approved by the United States Department of Education as a body that evaluates and approves the quality of nursing education programs within the United States and territories.

(26) "Nontraditional program of nursing" means a school that has a curriculum which does not include a faculty supervised teaching and learning component in clinical settings.

(27) "Nursing education program administrator" is an individual who has the authority and responsibility for the administration of the nursing education program.

(28) "Nursing education program" means a division or department within a state supported educational institution or other institution of higher learning, charged with the responsibility of preparing nursing students and nurses to qualify for initial licensing or higher levels of nursing practice.

(29) "Nursing faculty" means an individual employed by a nursing education program who is responsible for developing, implementing, evaluating, updating, and teaching nursing education program curricula.

(30) "Nursing technician" means a nursing student preparing for RN or LPN licensure who meets the qualifications for licensure under RCW 18.79.340 who is employed in a hospital licensed under chapter 70.41 RCW or a nursing home licensed under chapter 18.51 RCW, or clinic. The nursing student must be in a nursing educational program in the United States or its territories that is approved by the National Council Licensure Examination-RN or National Council Licensure Examination-PN. Approved nursing education programs do not include nontraditional schools as defined in subsection ~~((27))~~ (26) of this section.

(31) "Philosophy" means the beliefs and principles upon which a nursing education program curriculum is based.

(32) "Practical nursing education program" means a nursing education program which, upon successful completion of course work that includes core nursing course to provide a sound theoretical base combining clinical experiences with nursing principles, critical thinking, and interactive skills for entry level practical nursing, awards a certificate that the graduate is prepared for interdependent practice to prepare a practical nurse for interdependent practice as an LPN.

(33) "Registered nurse" or "RN" is a licensed nurse as defined in RCW 18.79.030(1), 18.79.040, 18.79.240, and 18.79.260.

(34) "Supervision" of licensed or unlicensed nursing personnel means the provision of guidance and evaluation for the accomplishment of a nursing task or activity with the initial direction of the task or activity; periodic inspection of the actual act of accomplishing the task or activity; and the authority to require corrective action.

(a) "Direct supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is quickly and easily available, and has assessed the patient prior to the delegation of the duties.

(b) "Immediate supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is on the premises, is within audible and visual range of the patient, and has assessed the patient prior to the delegation of duties.

(c) "Indirect supervision" means the licensed RN who provides guidance to nursing personnel and evaluation of nursing tasks is not on the premises but has given either written or oral instructions for the care and treatment of the patient and the patient has been assessed by the registered nurse prior to the delegation of duties.

(35) "Traditional nursing education program" means a program that has a curriculum which includes a faculty supervised teaching and learning component in clinical settings.

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-125 Retired active credential. (1) A registered or licensed practical nurse may place their credential in "retired active" status by meeting the requirements of this section.

(2) A registered or licensed practical nurse who holds a retired active credential may only practice in intermittent or emergent circumstances.

(a) Intermittent means the registered or licensed practical nurse will practice no more than ninety days a year.

(b) Emergent means the registered or licensed practical nurse will practice only in emergency circumstances such as earthquakes, floods, times of declared war, or other states of emergency.

(3) To obtain a retired active credential a registered or a licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-120.

(b) Pay the appropriate fee in WAC 246-840-990.

(4) To renew a retired active credential the registered nurse or licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-130. The retired active credential fee is in WAC 246-840-990.

~~(b) ((Have completed forty five hours of continuing nursing education every three years in compliance with WAC 246-840-220 (2)(b). Education may include CPR and first aid.~~

~~(c) Demonstrate they have practiced at least ninety six hours every three years. Practice may be paid or volunteer, but must require nursing knowledge or a nursing license.~~

~~(d))~~ Renew their retired active credential every year on their birthday.

(5) To return to active status the registered or licensed practical nurse must:

(a) meet the requirements in WAC 246-12-140. The active renewal fee is in WAC 246-840-990.

~~((b) Meet the continuing competency requirements in WAC 246-840-230 (5)(d).~~

~~(6) A registered or licensed practical nurse who holds a retired active credential is subject to a continuing competency audit as outlined in WAC 246-840-220, 246-840-230, and 246-840-240.)~~

AMENDATORY SECTION (Amending WSR 19-08-031, filed 3/27/19, effective 4/27/19)

WAC 246-840-365 Inactive and reactivating an ARNP license. To apply for an inactive ARNP license, an ARNP shall comply with WAC 246-12-090 or 246-12-540, if military related.

(1) An ARNP may apply for an inactive license if he or she holds an active Washington state ARNP license without sanctions or restrictions.

(2) To return to active status the ARNP:

(a) Shall meet the requirements identified in chapter 246-12 WAC, Part 4;

(b) Must hold an active RN license under chapter 18.79 RCW without sanctions or restrictions;

(c) Shall submit the fee as identified under WAC 246-840-990;

(d) Shall submit evidence of current certification by the commission approved certifying body identified in WAC 246-840-302(1); and

(e) Shall submit evidence of thirty contact hours of continuing education for each designation within the past two years;~~(and~~

~~(f) Shall submit evidence of two hundred fifty hours of advanced clinical practice for each designation within the last two years.~~

~~(3) An ARNP applicant who does not have the required practice requirements, shall complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.~~

~~(4) The ARNP applicant needing to complete supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5)).~~

~~((5)) (3) To regain prescriptive authority after inactive status, the applicant must meet the prescriptive authority requirements identified in WAC 246-840-410.~~

AMENDATORY SECTION (Amending WSR 19-08-031, filed 3/27/19, effective 4/27/19)

WAC 246-840-367 Expired license. When an ARNP license is not renewed, it is placed in expired status and the nurse must not practice as an ARNP.

(1) To return to active status when the license has been expired for less than two years, the nurse shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 2;

(b) Meet ARNP renewal requirements identified in WAC 246-840-360; and

(c) Meet the prescriptive authority requirements identified in WAC 246-840-450, if renewing prescriptive authority.

~~(2) ((Applicants who do not meet the required advanced clinical practice requirements must complete two hundred fifty hours of supervised advanced clinical practice for every two years the applicant may have been out of practice, not to exceed one thousand hours.~~

~~(3) The ARNP applicant needing to complete supervised advanced clinical practice shall obtain an ARNP interim permit consistent with the requirements for supervised practice defined in WAC 246-840-340 (4) and (5).~~

~~(4)) If the ARNP license has expired for two years or more, the applicant shall:~~

~~(a) Meet the requirements of chapter 246-12 WAC, Part 2;~~

~~(b) Submit evidence of current certification by the commission approved certifying body identified in WAC 246-840-302(3);~~

~~(c) Submit evidence of thirty contact hours of continuing education for each designation within the prior two years;~~

~~(d) Submit evidence of two hundred fifty hours of advanced clinical practice completed within the prior two years; and~~

~~(e) Submit evidence of an additional thirty contact hours in pharmacology if requesting prescriptive authority, which may be granted once the ARNP license is returned to active status.~~

~~((5)) (3) If the applicant does not meet the required advanced clinical practice hours, the applicant shall obtain an ARNP interim permit consistent with the requirements for supervised advanced clinical practice as defined in WAC 246-840-340 (4) and (5).~~

AMENDATORY SECTION (Amending WSR 19-08-026, filed 3/27/19, effective 4/27/19)

WAC 246-840-533 Nursing preceptors, interdisciplinary preceptors, and proctors in clinical or practice settings for nursing students located in Washington state.

(1) Nursing preceptors, interdisciplinary preceptors, and proctors may be used to enhance clinical or practice learning experiences after a student has received instruction and orientation from program faculty who confirm the student is adequately prepared for the clinical or practice experience. For the purpose of this section:

(a) A nursing preceptor means a practicing licensed nurse who provides personal instruction, training, and supervision to any nursing student, and meets all requirements of subsection (4) of this section.

(b) An interdisciplinary preceptor means a practicing health care provider who is not a licensed nurse, but provides personal instruction, training, and supervision to any nursing student, and meets all requirements of subsection (5) of this section.

(c) A proctor means an individual who holds an active credential in one of the professions identified in RCW 18.130.040 who monitors students during an examination,

skill, or practice delivery, and meets all requirements of subsection (6) of this section.

(2) Nursing education faculty are responsible for the overall supervision and evaluation of the student and must confer with each primary nursing and interdisciplinary preceptor, and student at least once during each phase of the student learning experience:

- (a) Beginning;
- (b) Midpoint; and
- (c) End.

(3) A nursing preceptor or an interdisciplinary preceptor shall not precept more than two students at any one time.

(4) A nursing preceptor may be used in nursing education programs when the nursing preceptor:

- (a) Has an active, unencumbered nursing license at or above the level for which the student is preparing;
- (b) Has at least one year of clinical or practice experience as a licensed nurse at or above the level for which the student is preparing;
- (c) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;
- (d) Is oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and

(e) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

(5) An interdisciplinary preceptor may be used in nursing education programs when the interdisciplinary preceptor:

- (a) Has an active, unencumbered license in the area of practice appropriate to the nursing education faculty planned student learning objectives;
- (b) Has the educational preparation and at least one year of clinical or practice experience appropriate to the nursing education faculty planned student learning objectives;
- (c) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;
- (d) Is oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and

(e) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

(6) A proctor who monitors, teaches, and supervises students during the performance of a task or skill must:

- (a) Have the educational and experiential preparation for the task or skill being proctored;
- (b) Have an active, unencumbered credential in one of the professions identified in RCW 18.130.040;
- (c) Only be used on rare, short-term occasions to proctor students when a faculty member has determined that it is safe for a student to receive direct supervision from the proctor for the performance of a particular task or skill that is within the scope of practice for the nursing student; and
- (d) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, busi-

ness, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

(7) A practice/academic partnerships model may be used to permit practice hours as a licensed nursing technician, as defined in WAC 246-840-010(30), to be credited toward direct care nursing program clinical hours, and academic credit. Use of this model must include:

(a) A nursing preceptor or nursing supervisor who has experience and educational preparation appropriate to the faculty-planned student learning experience. The nursing preceptor or nursing supervisor must be responsible for ensuring the requirements of WAC 246-840-880 are met;

(b) Nursing program faculty that work with health care facility representatives to align clinical skills and competencies with the nursing student-employee work role/responsibilities;

(c) Nursing student-employees with faculty-planned clinical practice experiences that enable the student to attain new knowledge, develop clinical reasoning/judgment abilities, and demonstrate achievement of clinical objectives and final learning outcomes of the nursing program if the nursing student-employee is in the final nursing course;

(d) The nursing student-employee use of reflection on the development or achievement of clinical objectives and final learning outcomes as designed by nursing education faculty;

(e) Nursing education faculty responsible for the overall supervision and evaluation of the nursing student-employee on a weekly basis;

(f) Evaluation by nursing education faculty to include documentation of the nursing student-employee achievement of clinical objectives and final learning outcomes and competencies of the nursing program; and

(g) Licensed nursing technicians be enrolled in a commission-approved nursing program and be in good standing to receive academic credit.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

WAC 246-840-534 Use of simulation for clinical experiences in LPN, RN, or RN to BSN nursing education programs located in Washington state. (1) An LPN, RN, or RN to BSN nursing education program may use simulation as a substitute for traditional clinical experiences, after approval by the commission, not to exceed fifty percent of its clinical hours (~~(for a particular course)~~) across the curriculum required for the program type.

(a) Simulation as used in this section means a technique to replace or amplify real experiences with guided experiences evoking or replicating substantial aspects of the real world in a fully interactive manner.

(b) The nursing education program shall have an organizing framework providing adequate fiscal, human, technological, and material resources to support the simulation activities.

(c) Simulation activities must be managed by an individual who is academically and experientially qualified and who

demonstrates currency and competency in the use of simulation while managing the simulation program.

(d) The nursing education program shall have a budget sustaining simulation activities and training of the faculty.

(e) The nursing education program shall have appropriate facilities, educational and technological resources and equipment to meet the intended objectives of the simulation.

(f) All faculty involved in simulations, both didactic and clinical, shall have training in the use of simulation and shall engage in ongoing professional development in the use of simulation.

(g) Faculty to student ratios in the simulation lab must be in the same ratio as identified in WAC 246-840-532 for clinical learning experiences.

(2) Faculty shall organize clinical and practice experiences based on the educational preparation and skill level of the student.

(3) Qualified simulation faculty must supervise and evaluate student clinical and practice experiences.

(a) The nursing education program shall demonstrate that simulation activities are linked to programmatic outcomes.

(b) The nursing education program shall have written policies and procedures on the following:

(i) Short-term and long-term plans for integrating simulation into the curriculum;

(ii) An identified method of debriefing each simulated activity; and

(iii) A plan for orienting faculty to simulation.

(c) Debriefing as used in this section means an activity following a simulation experience that is led by a facilitator, encourages reflective thinking, and provides feedback regarding the participant's performance.

(d) The nursing education program shall develop criteria to evaluate simulation activities.

(e) Students shall evaluate the simulation experience on an ongoing basis.

(f) The program shall include information about use of simulation in its annual report to the commission.

(4) The ratio of simulation hours to clinical experience hours will be calculated as follows:

(a) One clock hour of simulation may be considered equivalent up to two clock hours of clinical experience if the following conditions are met:

(i) The program holds full approval status by the commission, and is nationally accredited;

(ii) The program has received commission approval to conduct simulation, and is in alignment with the provisions of this section;

(iii) The program will collect evaluation data on simulation outcomes with tools provided by the commission.

(b) One clock hour of simulation may be considered equivalent to one clock hour of clinical experience if one or more of the following conditions are present:

(i) The program's approval status is conditional;

(ii) The program is not nationally accredited, unless the program is in pre-accreditation status, and the commission has specifically granted approval for a one-to-two ratio;

(iii) The program has not previously received commission approval to conduct simulation;

(iv) The program is not in alignment with the provisions of this section;

(v) The program is on a current plan of correction, unless the commission has specifically granted approval for a one-to-two ratio.

AMENDATORY SECTION (Amending WSR 13-15-064, filed 7/15/13, effective 8/15/13)

WAC 246-840-840 Nursing technician. The purpose of the nursing technician credential is to provide additional work related opportunities for students enrolled in an LPN, ADN or BSN program, within the limits of their education, to gain valuable judgment and knowledge through expanded work opportunities.

(1) The nursing technician is as defined in WAC 246-840-010(~~((+8))~~) (30).

(2) The nursing technician shall have knowledge and understanding of the laws and rules regulating the nursing technician and shall function within the legal scope of their authorization under chapter 18.79 RCW and shall be responsible and accountable for the specific nursing functions which they can safely perform as verified by their nursing program.

(3) The nursing technician shall work directly for the hospital, clinic or nursing home and may not be employed in these facilities through a temporary agency.

AMENDATORY SECTION (Amending WSR 13-15-063, filed 7/15/13, effective 8/15/13)

WAC 246-840-930 Criteria for delegation. (1) Before delegating a nursing task, the registered nurse delegator decides the task is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE.

ASSESS

(2) The setting allows delegation because it is a community-based care setting as defined by RCW 18.79.260 (3)(e) (i) or an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii).

(3) Assess the patient's nursing care needs and determine the patient's condition is stable and predictable. A patient may be stable and predictable with an order for sliding scale insulin or terminal condition.

(4) Determine the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine the task to be delegated can be properly and safely performed by the nursing assistant or home care aide. The registered nurse delegator assesses the potential risk of harm for the individual patient.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant or home care aide to competently accomplish the task. The registered nurse delegator identifies and facilitates any additional training of the nursing assistant or home care aide needed prior to delegation. The registered nurse delegator ensures the task to be delegated can be properly and safely performed by the nursing assistant or home care aide.

(7) Assess the level of interaction required. Consider language or cultural diversity affecting communication or the ability to accomplish the task and to facilitate the interaction.

(8) Verify that the nursing assistant or home care aide:

(a) Is currently registered or certified as a nursing assistant or home care aide in Washington state without restriction;

(b) Has completed ~~((both)) the ((basic caregiver training and))~~ core delegation training before performing any delegated task;

(c) Has a certificate of completion issued by the department of social and health services indicating completion of the required core nurse delegation training;

(d) Has a certificate of completion issued by the department of social and health services indicating completion of diabetes training when providing insulin injections to a diabetic client; and

(e) Is willing and able to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant or home care aide to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse:

(a) Discusses the delegation process with the patient or authorized representative, including the level of training of the nursing assistant or home care aide delivering care.

(b) Obtains written or verbal consent ~~((The patient, or authorized representative, must give written consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within thirty days;))~~ under chapter 7.70 RCW, which must be documented in the patient record. Electronic consent is an acceptable format. ((Written)) Consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse, nursing assistant, or home care aide will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant or home care aide with a copy maintained in the patient's record that includes:

(a) The rationale for delegating the nursing task;

(b) The delegated nursing task is specific to one patient and is not transferable to another patient;

(c) The delegated nursing task is specific to one nursing assistant or one home care aide and is not transferable to another nursing assistant or home care aide;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator uses to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant or home care aide of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document teaching done and a return demonstration, or other method for verification of competency; and

(m) Supervision shall occur at least every ~~((ninety))~~ one hundred twenty days. With delegation of insulin injections, ~~((the supervision occurs at least weekly for the first four weeks, and may be more frequent))~~ after initial training on the task that the registered nurse considers appropriate, the registered nurse will assess the competence of the nursing assistant and determine further supervision needs as appropriate.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator, including insulin injections. Any other injection (intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise) is prohibited. The registered nurse delegator provides to the nursing assistant or home care aide written directions specific to an individual patient.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant or home care aide how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator monitors the performance of the task(s) to assure compliance with established standards of practice, policies and procedures and appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator evaluates the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator supervises and evaluates the performance of the nursing assistant or home care aide, including direct observation or other method of verification of competency of the nursing assistant or home care aide. The registered nurse delegator reevaluates the patient's con-

dition, the care provided to the patient, the capability of the nursing assistant or home care aide, the outcome of the task, and any problems.

(18) The registered nurse delegator ensures safe and effective services are provided. Reevaluation and documentation occurs at least every ~~((ninety))~~ one hundred twenty days. Frequency of supervision is at the discretion of the registered nurse delegator and may be more often based upon nursing assessment.

(19) The registered nurse must supervise and evaluate the performance of the nursing assistant or home care aide with delegated insulin injection authority ~~((at least weekly for the first four weeks. After the first four weeks the supervision shall occur at least every ninety))~~ as needed, but at least once every one hundred twenty days.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-840-210 Continuing competency definitions.

WAC 246-840-240 Extension.

WAC 246-840-361 Continuing education for ARNP license renewal.

AMENDATORY SECTION (Amending WSR 09-06-006, filed 2/18/09, effective 3/21/09)

WAC 246-841-405 Nursing assistant delegation. Provision for delegation of certain tasks.

(1) Nursing assistants perform tasks delegated by a registered nurse for patients in community-based care settings or in-home care settings each as defined in RCW 18.79.260 (3) (e).

(2) Before performing any delegated task:

(a) Nursing assistants-registered must show the certificate of completion ~~((of both the basic caregiver training and))~~ core delegation training from the department of social and health services to the registered nurse delegator.

(b) Nursing assistants-certified must show the certificate of completion of the core delegation training from the department of social and health services to the registered nurse delegator.

(c) All nursing assistants must comply with all applicable requirements of the nursing care quality assurance commission in WAC 246-840-910 through 246-840-970.

(d) All nursing assistants, registered and certified, who may be completing insulin injections must give a certificate of completion of diabetic training from the department of social and health services to the registered nurse delegator.

(e) All nursing assistants must meet any additional training requirements identified by the nursing care quality assurance commission. Any exceptions to additional training requirements must comply with RCW 18.79.260 (3)(e)(v).

(3) Delegated nursing care tasks described in this section are:

(a) Only for the specific patient receiving delegation;

(b) Only with the patient's consent; and

(c) In compliance with all applicable requirements in WAC 246-840-910 through 246-840-970.

(4) A nursing assistant may consent or refuse to consent to perform a delegated nursing care task. The nursing assistant is responsible for their own actions with the decision to consent or refuse to consent and the performance of the delegated nursing care task.

(5) Nursing assistants shall not accept delegation of, or perform, the following nursing care tasks:

(a) Administration of medication by injection, with the exception of insulin injections;

(b) Sterile procedures;

(c) Central line maintenance;

(d) Acts that require nursing judgment.

WSR 20-10-020

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed April 27, 2020, 12:10 p.m., effective April 27, 2020, 12:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is establishing rules to comply with ESHB 1109, section 211(47), which provides funding for services identical to those services covered by the Washington state family planning waiver program to individuals who: (1) Are age twenty and older; (2) who are at or below two hundred sixty percent of the federal poverty level; (3) who are not covered by public or private insurance; and (4) who need family planning services and are not currently covered by or eligible for another medical assistance program for family planning.

Citation of Rules Affected by this Order: Amending WAC 182-532-510.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, ESHB 1109, section 211(47), chapter 415, Laws of 2019, operating budget.

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: This emergency is necessary to continue the current emergency filed under WSR 20-02-098, which is set to expire April 28, 2020, while the agency completes the permanent rule-making process. This emergency implements the requirements in ESHB 1109, section 211(47), chapter 415. Since the last emergency filing [filing], the agency filed the CR-102 proposed rule making under WSR 20-09-096 on April 15, 2020, and a public hearing is scheduled for May 26, 2020.

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

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

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

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

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

Date Adopted: April 27, 2020.

Wendy Barcus
Rules Coordinator

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

WAC 182-532-510 Family planning only programs—Eligibility. To be eligible for one of the family planning only programs listed in this section, a client must meet the qualifications for that program.

(1) **Family planning only - Pregnancy related program.**

(a) To be eligible for family planning only - Pregnancy related services, as defined in WAC 182-532-001, a client must be determined eligible for the Washington apple health for pregnant ~~((clients))~~ women program during the pregnancy, or determined eligible for a retroactive period covering the end of a pregnancy. See WAC 182-505-0115.

(b) A client is automatically eligible for the family planning only - Pregnancy related program when the client's pregnancy ends.

(c) A client may apply for the family planning only program in subsection (2) of this section up to sixty days before the expiration of the family planning only - Pregnancy related program.

(2) **Family planning only program.**

(a) To be eligible for family planning only services, as defined in WAC 182-532-001, a client must:

(i) ~~((Be a United States citizen, U.S. National, or "qualified alien" as described under WAC 182-503-0535;~~

~~((ii)))~~ Provide a valid Social Security number (SSN), unless ineligible to receive one, or meet good cause criteria listed in WAC 182-503-0515(2);

~~((iii)))~~ (ii) Be a Washington state resident, as described under WAC 182-503-0520;

~~((iv)))~~ (iii) Have an income at or below two hundred sixty percent of the federal poverty level, as described under WAC 182-505-0100;

~~((v)))~~ (iv) Need family planning services; and

~~((vi)))~~ (v) Have been denied apple health coverage within the last thirty days, unless the applicant:

(A) Is age eighteen ~~((and))~~ or younger and seeking services in confidence;

(B) Is a domestic violence victim who is seeking services in confidence; or

(C) Has an income of one hundred fifty percent to two hundred sixty percent of the federal poverty level, as described in WAC 182-505-0100.

(b) A client is not eligible for family planning only medical if the client is:

(i) Pregnant;

(ii) Sterilized;

(iii) Covered under another apple health program that includes family planning services; or

(iv) Covered by concurrent creditable coverage, as defined in RCW 48.66.020, unless they meet criteria in (a) ~~((vi)))~~ (v) of this subsection.

(c) A client may reapply for coverage under the family planning only program up to sixty days before the expiration of the twelve-month coverage period. The agency does not limit the number of times a client may reapply for coverage.

WSR 20-10-021

EMERGENCY RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2020-03—Filed April 27, 2020, 12:23 p.m., effective April 27, 2020, 12:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency regulation to address the impact of COVID-19 and the Governor's Stay Home, Stay Healthy Emergency Proclamation on licensed insurance producers by enabling licensed producers who have been impacted by COVID-19 to have more time to renew their producer licenses and pay the required renewal fee. This will also ensure that the producers who have been impacted by COVID-19 do not accrue late fees because they are unable to promptly renew their licenses.

Citation of Rules Affected by this Order: Amending WAC 284-17-423.

Statutory Authority for Adoption: RCW 48.01.030, 48.02.060, 48.17.005, and 48.17.170.

Other Authority: None.

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

Reasons for this Finding: Given the extraordinary impact of the COVID-19 outbreak and its impact on Washington businesses, Governor Jay Inslee issued Emergency Proclamation 20-25 on March 23, 2020, prohibiting all people in Washington state from leaving their homes or participating in social, spiritual and recreational gatherings of any kind regardless of the number of participants. On April 2, 2020, the governor extended the time frame for the proclamation by issuing Proclamation 20-25.1. During this time and possibly thereafter, it has become more difficult for licensed insurance producers to timely renew their producer licenses and pay the required renewal fee. To ensure that these individuals will not be burdened further by fees accrued for late renewal, it is necessary to provide for renewal extensions for licensed insurance producers impacted by COVID-19. Observing notice and comment rule making would not serve the public interest because it would deny relief to individuals whose licenses

expire in the interim, limiting the number of producers available to help consumers during a time of unprecedented interest in insurance procurement and claims filing.

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

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

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

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

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

Date Adopted: April 27, 2020.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 18-22-069, filed 11/1/18, effective 12/17/18)

WAC 284-17-423 Term of initial and reinstated individual license. (1) Initial and reinstated individual licenses are valid from their date of issuance until the end of the licensee's next birth month plus one year. Additional licenses issued to the same active licensee will be on the same renewal cycle as the first license issued to that licensee.

(2) The renewal date of a business entity license is based on the date of application. The license is valid for two years. Additional licenses issued to the same active licensee will be on the same renewal cycle as the first license issued to that licensee. If a licensee's insurance license expires between March 1, 2020, and June 30, 2020, and the licensee has experienced a hardship related to COVID-19, the licensee's insurance license expiration date will be extended until July 31, 2020, if the licensee submits a request for an extension by email to licinfo@oic.wa.gov.

Table 1. The number of nonresident recreational fishing licenses (annual and temporary) sold, by month, in 2019 and 2020 through April 26, 2020.

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
2019	14,682	11,262	11,663	18,025	17,328	12,176	7,481	6,261	4,745	2,376	6,421	7,335
2020	369											

Given that the timing of the COVID-19 situation has overlapped with the opening dates of fisheries that typically draw a lot of effort, such as lowland lake trout fishing, and there could be a pent-up desire to spend time outdoors after staying home for six weeks or more, WDFW would like to be

**WSR 20-10-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 20-62—Filed April 27, 2020, 5:00 p.m., effective April 27, 2020, 5:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The Washington department of fish and wildlife (WDFW) is suspending the sale and issuance of nonresident recreational fishing licenses, effective April 27, 2020, at 5:00 p.m., until the expiration date of the emergency rule or until further notice.

Citation of Rules Affected by this Order: New WAC 220-220-00100A.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Other Authority: None.

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

Reasons for this Finding: WDFW is suspending the sale and issuance of nonresident recreational fishing licenses in an effort to help slow the spread of the COVID-19 coronavirus. However, we intend to continue to sell nonresident hunting licenses and honor the nonresident recreational fishing and hunting licenses sold prior to the suspension and address these topics separately below.

Suspension of the Sale and Issuance of Nonresident Recreational Fishing Licenses: The WDFW license year begins on April 1 each year and runs through March 31 of the following year. In reviewing the number of nonresident recreational fishing licenses sold by month in 2019 (Table 1), it appears that typically there are a lot of licenses sold in April at the start of the licensing year. The number of licenses remains steadily high in May and June before peaking in July. While the number of nonresident recreational fishing licenses sold in April 2020 is considerably lower due to the COVID-19 situation, as the state considers allowing outdoor recreational activities to slowly resume in phases, the number of nonresident recreational fishing licenses could quickly jump, which could potentially compromise our ability to prosecute recreational fisheries in a manner that is safe for the recreating public and WDFW employees fulfilling essential functions, such as enforcement and conducting angler interviews.

precautionary when considering when and how to phase-in the reopening of recreational fishing. Unlike hunting, recreational fishing often requires anglers to spend time in fairly close proximity whether fishing from a bank or launching a boat from an access site. Therefore, given that so few nonres-

ident recreational fishing licenses have been sold this year, but the potential to sell tens of thousands is there in the next few months, we believe that suspending the sale of nonresident recreational fishing licenses is the proactive, prudent action to take at this time.

As the COVID-19 situation hopefully continues to improve and the state is able to progress through additional phases to allow increased outdoor recreational activities, WDFW plans to reassess when fishing opportunities to nonresident anglers could safely be offered.

Continuation of the Sale and Issuance of Nonresident Hunting Licenses: The number of nonresident hunting licenses sold each year is considerably lower than the number of nonresident fishing licenses sold each year (i.e., 5,323 for hunting compared to 119,755 for fishing) and the hunting opportunities available for nonresidents to engage in during the spring is pretty much limited to spring bear and turkey, which do not draw much effort.

Nonresident hunters are also required to purchase a WDFW hunting license in order to apply for special permit hunts, such as for deer and elk. The deadline to submit special permit applications is May 18, 2020; however, the special permit seasons are not scheduled until the fall when, hopefully, the COVID-19 situation will have significantly improved. Also, it [is] important to note that, because a nonresident hunting license is required to apply for a special permit and that special permit hunts are limited (e.g., twenty permits may be issued for a hunt in a specific geographic area), all nonresident hunting license holders may not have the opportunity to use their license to hunt in a given year.

Additionally, unlike fishing where angler effort can become concentrated, it may be easier for hunters to spread out and avoid areas that are already occupied by other hunters.

Therefore, given that the number of nonresident hunting licenses sold each year is relatively low absent the COVID-19 situation, the hunting opportunities currently offered are extremely limited, the expectation that the COVID-19 situation will have improved by the fall, and the ability for hunters to spread out on the landscape while hunting, WDFW believes that the continuation of the sale of nonresident hunting licenses poses relatively low health risk to the hunting public.

Honoring the Nonresident Recreational Fishing and Hunting Licenses Already Sold and Issued: Given that the number of nonresident recreational fishing licenses sold (i.e., three hundred sixty-nine) and the number of nonresident hunting licenses sold (i.e., one hundred twenty-eight) through April 26 are relatively low, the current situation explained above, and that the state intends to phase-in outdoor recreational activities slowly as the COVID-19 situation improves, we believe that honoring the nonresident recreational fishing and hunting licenses that have already been sold poses relatively low additional risk to the recreating public.

The intent of these decisions is to comply with Governor Inslee's statewide proclamations to "Stay Home, Stay Healthy," while also allowing Washingtonians to engage in localized outdoor recreational activities.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 27, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-220-00100A General recreational license rules. Notwithstanding the provisions of Chapter 220-220 WAC, effective April 27, 2020, at 5:00 pm, the sale and issuance of non-resident recreational fishing licenses is hereby suspended, until the expiration date of the emergency rule or until further notice. The recreational fishing and hunting licenses issued to non-resident persons prior to this license sales suspension remain valid for the 2020-2021 license year.

WSR 20-10-032

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed April 28, 2020, 10:02 a.m., effective April 28, 2020, 10:02 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-310-806 Kidney disease treatment facilities—Concurrent review cycles, the department of health (department) is adopting an emergency rule to amend WAC 246-310-806(1) as it relates to special and nonspecial circumstances 1 concurrent review cycle. The amendment extends deadlines for kidney disease treatment facility applicants who are submitting applications during concurrent review cycle 1. This extension grants flexibility in meeting deadlines during the current public health emergency created by the coronavirus disease 19 (COVID-19) pandemic.

This emergency rule adopts the waived application deadlines for the special circumstances 1 concurrent review cycle originally outlined by Governor Inslee in Proclamation 23-06. In addition, it will also waive the application deadlines for nonspecial circumstances during the first review cycle.

Citation of Rules Affected by this Order: Amending WAC 246-310-806.

Statutory Authority for Adoption: RCW 70.38.135.

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 immediate amendment of these existing rules is necessary for the preservation of public health, safety, and general welfare. Allowing flexibility for the kidney disease treatment facility concurrent review start cycle will allow additional time for kidney disease treatment facility applicants to fulfill their obligations during the current public health emergency created by the COVID-19 pandemic. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest and the governor's order. This allows kidney disease treatment facilities to focus on immediate needs of patients during the COVID-19 response as well as time and capacity to submit quality applications that satisfy regulatory requirements. Failure to extend deadlines would result in potentially less applicants for additional kidney dialysis stations in communities of need.

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

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

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

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

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

Date Adopted: April 28, 2020.

Jessica Todorovich
Chief of Staff
for John Wiesman, DrPH, MPH
Secretary of Health

AMENDATORY SECTION (Amending WSR 17-04-062, filed 1/27/17, effective 1/1/18)

WAC 246-310-806 Kidney disease treatment facilities—Concurrent review cycles. The department will review kidney dialysis facility applications using the concurrent review cycles described in this section, unless the application was submitted as described in subsection (9) of this section. There are four concurrent review cycles each year.

(1) Applicants must submit applications for review according to the following table:

Concurrent Review Cycle	Letters of Intent Due	Application Submission Period			Department Action	Application Review Period		
		Receipt of Initial Application	End of Screening Period	Applicant Response		Public Comment Period (includes public hearing if requested)	Rebuttal Period	Exparte Period
Special Circumstances 1	First working day of ((April)) May of each year.	First working day of ((May)) June of each year.	((May)) June 15 or the first working day thereafter.	((June)) July 15 or the first working day thereafter.	((June)) July 22 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins ((June)) July 23 or the first working day thereafter.	7-Day Rebuttal period. Applicant and affected party response to public comment.	15-Day Exparte period. Department evaluation and decision.
Nonspecial Circumstance Cycle 1	First working day of ((May)) June of each year.	First working day of ((June)) July of each year.	Last working day of ((June)) July .	Last working day of ((July)) August .	((August)) September 5 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins ((August)) September 6 or the first working day thereafter.	30-Day Rebuttal period. Applicant and affected party response to public comment.	75-Day Exparte period. Department evaluation and decision.

Concurrent Review Cycle	Letters of Intent Due	Application Submission Period			Department Action	Application Review Period		
		Receipt of Initial Application	End of Screening Period	Applicant Response	Beginning of Review	Public Comment Period (includes public hearing if requested)	Rebuttal Period	Exparte Period
Special Circumstances 2	First working day of October of each year.	First working day of November of each year.	November 15 or the first working day thereafter.	December 15 or the first working day thereafter.	December 22 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins December 23 or the first working day thereafter.	7-Day Rebuttal period. Applicant and affected party response to public comment.	15-Day Exparte period. Department evaluation and decision.
Nonspecial Circumstances Cycle 2	First working day of November of each year.	First working day of December of each year.	Last working day of December .	Last working day of January .	February 5 or the first working day thereafter.	30-Day Public comment period (including public hearing). Begins February 6 or the first working day thereafter.	30-Day Rebuttal period. Applicant and affected party response to public comment.	75-Day Exparte period. Department evaluation and decision.

(2) The department should complete a nonspecial circumstance concurrent review cycle within nine months, which begins the first day after letters of intent are due for that particular review cycle. The department should complete the regular review process within six months, which begins the first day after the letters of intent are due for that particular review cycle.

(3) The department will notify applicants fifteen days prior to the scheduled decision date if it is unable to meet the decision deadline on the applications. In that event, the department will establish and commit to a new decision date.

(4) When two or more applications are submitted for the same planning area, the department will first evaluate each application independently for meeting the applicable standards described in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240. If two or more applications independently meet those four standards, the department will apply the superiority criteria in WAC 246-310-827 to determine the superior application under WAC 246-310-240(1).

(5) An applicant receiving points for the purposes of the superiority criteria under WAC 246-310-827 (3)(e), (f), or (g) may only apply for station need in one planning area per review cycle.

(6) An applicant receiving points for purposes of the superiority criteria under WAC 246-310-827 (3)(e), (f), or (g) must operate the newly awarded stations for a period of time long enough to have a full year of data reporting medicare cost report worksheets and a full year of data reporting the dialysis facility report prior to any future applications.

(7) The department will not accept new nonspecial circumstance applications for a planning area if there are any nonspecial circumstance applications for which the certificate of need program has not made a decision in that planning area filed under a previous concurrent review cycle. This

restriction does not apply if the department has not made a decision on the pending applications within the review timelines of nine months for a concurrent review and six months for a regular review. This restriction also does not apply to special circumstance applications.

(8) The department may convert the review of a nonspecial circumstance application that was initially submitted under a concurrent review cycle to a regular review process if the department determines that the nonspecial circumstance application does not compete with another nonspecial circumstance application.

(9) Pending certificate of need applications. Kidney dialysis facility applications submitted prior to the effective date of these rules will be reviewed and action taken based on the rules that were in effect on the date the applications were received.

WSR 20-10-033

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 20-60—Filed April 28, 2020, 10:38 a.m., effective April 28, 2020, 10:38 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends coastal commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000Z and 220-340-45000S; and amending WAC 220-340-420 and 220-340-450.

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

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

Reasons for this Finding: This emergency rule is needed to open the commercial crab fishery in the Quileute Special Management Area. Pot limits will reduce the crowding effect in these restricted areas. The changes proposed are in accordance with the current State-Quileute Harvest Management 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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: April 28, 2020.

Amy Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000A Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420, effective immediately and until further notice:

(1) It is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean from any vessel, unless:

(2)(2) Effective May 1, 2020 at 8:00 a.m. and until further notice, is unlawful for a vessel to use more than 100 pots in the Quileute SMA. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Cape Johnson (47°58.00') and Destruction Island (47°40.50'). Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Robert Morgan at 360-249-1229;
- E-mail to Robert Morgan at Robert.Morgan@dfw.wa.gov; or
- Telephone call to Robert Morgan at 360-249-1206.

(3) Unless otherwise amended all other provisions of the permanent rule remain in effect.

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

NEW SECTION

WAC 220-340-45000T Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450 effective immediately until further notice: it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided in this section; effective 8:00 A.M., March 18, 2020 until further notice:

(1) Open area: The area from the US/Canada Border to the WA/OR border (46°15.00) and Grays Harbors and Willapa Bay: For the purposes of this section, the waters of Willapa Bay include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(2) The Quinalt Secondary Special Management Area (SSMA) is closed to fishing for Dungeness crab from the area shoreward of a line approximating the 27-fathom depth curve between the mouth of the Copalis River (47°08.00) and Split Rock (47°24.50). This SSMA is described by the following coordinates:

(a) Northeast Corner (Split Rock): 47°24.50 N. Lat. 124°20.00 W. Lon.

(b) Northwest Corner: 47°24.50 N. Lat. 124°32.40 W. Lon.

(c) Southwest Corner: 47°08.00 N. Lat. 124°25.50 W. Lon.

(d) Southeast Corner (Copalis River): 47°08.00 N. Lat. 124°11.20 W. Lon.

(3) The Quileute special management area (SMA) is open to fishing for Dungeness crab at 8:00 a.m. on May 1, 2020, to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

(a) Northeast Corner (Cape Johnson): 47°58.00' N. Lat. 124°40.40' W. Lon.

(b) Northwest Corner: 47°58.00' N. Lat. 124°49.00' W. Lon.

(c) Southwest Corner: 47°40.50' N. Lat. 124°40.00' W. Lon.

(d) Southeast Corner (Destruction Island): 47°40.50' N. Lat. 124°24.43' W. Lon.

(4) The Makah special management area (SMA) is open to fishing for Dungeness crab until further notice. The SMA includes the waters between 48°02.15 N. Lat. and 48°19.50 N. Lat. east of a line connecting those points and approximating the 25-fathom line according to the following coordinates:

(a) Northeast Corner (Tatoosh Island)

(b) Northwest Corner: 48°19.50' N. Lat. 124°50.45' W. Lon.

(c) Southwest Corner: 48°02.15' N. Lat. 124°50.45' W. Lon.

(d) Southeast Corner: 48°02.15' N. Lat. 124°41.00' W. Lon.

(5) Unless otherwise amended all other provisions of the permanent rule remain in effect.

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

REPEALER

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

- WAC 220-340-42000Z Commercial crab fishery—Unlawful acts. (20-47)
 WAC 220-340-45000S Commercial crab fishery—Seasons and areas—Coastal. (20-47)

WSR 20-10-034

EMERGENCY RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed April 28, 2020, 10:50 a.m., effective April 28, 2020, 10:50 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending the rules listed below to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. These amendments will align state nursing home rules with federal rules that were suspended or amended to help facilitate care during the COVID-19 pandemic. The federal rules were amended to allow physicians to delegate tasks to a physician assistant, nurse practitioner, or clinical nurse specialist. Current state rules specify physicians must perform some tasks. The amendment will permit delegation of those tasks as long as the task is within the scope of practice of the delegate, and the delegate works under the supervision of the physician.

Citation of Rules Affected by this Order: Amending WAC 388-97-1260.

Statutory Authority for Adoption: RCW 74.42.620.

Other Authority: Chapter 74.34 RCW.

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

Reasons for this Finding: The threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as long-term care facilities. Current nursing home rules require physicians perform certain tasks. The rules also restrict the frequency of delegation from a physician to a registered nurse practitioner or a physician assistant, depending on the payor source of the resident and whether the bed the resident occupies is certified for medicare, medicaid, or both. The amendment will permit the physician to delegate tasks, even if it is required to be performed

by the physician in regulation and regardless of the frequency of the delegation. The amendment does not change the required frequency of physician visits or the requirement for the physician to supervise the delegate. This amendment aligns state rules with federal rules recently amended to permit increased delegation of physician tasks to a registered nurse practitioner or a physician assistant. This amendment provides flexibility for physicians to better prioritize their time and will help to ensure nursing home residents receive assessment and care by a qualified healthcare provider in a timely manner.

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

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

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

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

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

Date Adopted: April 24, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-20-062, filed 9/24/08, effective 11/1/08)

WAC 388-97-1260 Physician services. (1) The nursing home must ensure that the resident is seen by the physician whenever necessary.

(2) Except as specified in RCW 74.42.200, a physician must personally approve in writing a recommendation that an individual be admitted to a nursing home.

(3) The nursing home must ensure that:

(a) Except as specified in RCW 74.42.200, the medical care of each resident is supervised by a physician;

(b) Another physician supervises the medical care of residents when their attending physician is unavailable; and

(c) Physician services are provided twenty-four hours per day, in case of emergency.

(4) The physician must:

(a) Write, sign and date progress notes at each visit;

(b) Sign and date all orders; and

(c) In medicare and medicare/medicaid certified facilities, review the resident's total program of care, including medications and treatments, at each federally required visit.

(5) Except as specified in ~~((subsections))~~ subsection (6) ((, (7), and (9))) of this section, a physician may delegate tasks, including tasks that, under state law, must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is:

(a) Licensed by the state;

(b) Acting within the scope of practice as defined by state law; ~~((and))~~

(c) Under the supervision of, and working in collaboration with the physician; and

(d) Not an employee of the facility, if caring for a resident whose payor source is medicaid.

(6) The physician may not delegate a task when the delegation is prohibited under state law or by the facility's own policies.

(7) ~~((If the resident's primary payor source is medicare, the physician may:~~

(a) ~~Alternate federally required physician visits between personal visits by:~~

(i) ~~The physician; and~~

(ii) ~~An advanced registered nurse practitioner or physician's assistant; and~~

(b) ~~Not delegate responsibility for the initial required physician visit. This initial visit must occur within the first thirty days of admission to the facility.~~

(8) ~~If the resident's payor source is medicaid, the physician may delegate any federally required physician task, including tasks which the regulations specify must be performed personally by the physician, to a physician's assistant~~

~~or advanced registered nurse practitioner who is not an employee of the facility but who is working in collaboration with a physician.~~

(9) ~~If the resident's payor source is not medicare or medicaid:~~

(a) ~~In the medicare only certified facility or in the medicare certified area of a medicare/medicaid facility, the physician may alternate federally required physician visits between personal visits by the physician and an advanced registered nurse practitioner or physician's assistant. The physician may not delegate responsibility for the initial required physician visit.~~

(b) ~~In the medicaid only certified facility or in the medicaid certified area of a medicare/medicaid facility, the physician may delegate any federally required physician task, including tasks which the regulations specify must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is not an employee of the facility but who is working in collaboration with a physician.~~

(10) ~~The following table describes the physician visit requirements related to medicare or medicaid certified area and payor type.~~

	Beds in medicare only certified area	Beds in medicare/medicaid certified area	Beds in medicaid only certified area
Payor source: medicare	Initial by physician Physician may delegate alternate visits	Initial by physician Physician may delegate alternate visits	N/A
Payor source: medicaid	N/A	Delegate all tasks Nonemployee	Delegate all tasks Nonemployee
Payor source: Others: such as insurance, private pay, Veteran Affairs	Initial by physician Physician may delegate alternate visits	Initial by physician Physician may delegate alternate visits	Delegate all tasks Nonemployee

~~((11)))~~ The attending physician, or the physician-designated advanced registered nurse practitioner or physician's assistant must:

(a) Participate in the interdisciplinary plan of care process as described in WAC 388-97-1020;

(b) Provide to the resident, or where applicable the resident's surrogate decision maker, information so that the resident can make an informed consent to care or refusal of care (see WAC 388-97-0260); and

(c) Order resident self-medication when appropriate.

~~((12)))~~ (8) The nursing home must obtain from the physician the following medical information before or at the time of the resident's admission:

(a) A summary or summaries of the resident's current health status, including history and physical findings reflecting a review of systems;

(b) Orders, as necessary for medications, treatments, diagnostic studies, specialized rehabilitative services, diet, and any restrictions related to physical mobility; and

(c) Plans for continuing care and discharge.

**WSR 20-10-041
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed April 28, 2020, 2:31 p.m., effective April 28, 2020, 2:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to establish the terms and conditions governing local education agencies' entitlement to receive state basic education apportionment allocations during the 2019-20 school year when the local education agencies could not offer the statutory minimum number of school days or annual average total instructional hour offerings due to emergency closures caused by the COVID-19 pandemic and other unforeseen events. The emergency rule making also addresses standards for continuous learning for the remainder of the 2019-20 school year.

Citation of Rules Affected by this Order: New chapter 392-901 WAC.

Statutory Authority for Adoption: RCW 28A.150.290.

Other Authority: RCW 28A.230.100, 28A.230.125, 28A.710.040(5).

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

Reasons for this Finding: On March 13, 2020, the governor ordered the statewide closure of public school facilities beginning March 17, 2020, to curtail the spread of the COVID-19 virus. On April 7, 2020, the governor extended the school closure order to the end of the school year. Given the unprecedented effects of the COVID-19 pandemic and the closure of school facilities for the remainder of the 2019-20 school year, the immediate adoption of this rule is necessary for the preservation of public health, safety, and the general welfare.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 0, Repealed 0.

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

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

Date Adopted: April 28, 2020.

Chris Reykdal
State Superintendent
of Public Instruction

Chapter 392-901 WAC

SPECIAL RULES FOR EMERGENCY SCHOOL CLOSURES IN THE 2019-20 SCHOOL YEAR

NEW SECTION

WAC 392-901-005 Authority. (1) The authority for this chapter is RCW 28A.150.290(2), which authorizes the superintendent of public instruction to make rules establishing the terms and conditions for allowing a school district to receive state basic education moneys when, due to an emergency school closure, the district is unable to fulfill the following statutory requirements:

- (a) One hundred eighty days of operation; or
- (b) The total program hour offerings or teacher contact hours requirements imposed by law.

(2) This chapter is further authorized by RCW 28A.150.-290(1), which provides that the superintendent has the power and duty to make such rules and regulations as are necessary for the proper administration of, among other things, chapter 28A.150 RCW and RCW 28A.300.170 not inconsistent with the provisions thereof, and in addition to require such reports

as may be necessary to carry out the superintendent's duties under chapter 28A.150 RCW and RCW 28A.300.170.

(3) This chapter is further authorized by RCW 28A.230.-100, which provides that the superintendent shall adopt rules to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.-090 and special alterations of the course requirements in RCW 28A.230.090.

(4) This chapter is further authorized by RCW 28A.230.-125, which provides that the superintendent shall develop for use by all public school districts a standardized high school transcript.

(5) This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

NEW SECTION

WAC 392-901-010 Purpose. The purpose of this chapter is to establish the terms and conditions governing local education agencies' entitlement to receive state basic education apportionment allocations during the 2019-20 school year when the local education agencies could not offer the statutory minimum number of school days or annual average total instructional hour offerings due to emergency school closures caused by the COVID-19 epidemic and other unforeseen events.

NEW SECTION

WAC 392-901-015 Application. (1) Unless provided otherwise herein, this chapter supersedes chapter 392-129 WAC when chapter 392-129 WAC and this chapter are in conflict.

(2) This chapter applies to common school districts, charter public schools, and state-tribal education compact schools.

(3) This chapter shall be effective only for the 2019-20 school year.

NEW SECTION

WAC 392-901-020 Definitions. As used in this chapter, the term:

(1) "Continuous learning" means establishing and maintaining connections with students and families to provide learning materials and supports using a variety of modalities including, but not limited to, email, telephone, printed learning materials, or available online platforms, taking into account recommendations provided by the office of the superintendent of public instruction in its published guidance and as required under this chapter and applicable state and federal law.

(2) "Emergency school closure" means:

(a) An unforeseen natural event including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect

effect of rendering one or more local education agency facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that:

(i) Is beyond the control of a local education agency; and

(ii) Has the direct or indirect effect of rendering one or more school facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water.

An unforeseen action or inaction shall not include any labor dispute between a local education agency governing board and any of its employees.

(3) "Instructional hour" means the same as defined in RCW 28A.150.205.

(4) "Local education agency" means a common school district, charter school established under chapter 28A.710 RCW, or state-tribal education compact school operated according to the terms of a state-tribal education compact authorized under chapter 28A.715 RCW.

(5) "School day" means the same as defined in WAC 392-121-033.

(6) "School year" means the same as defined in WAC 392-121-031.

NEW SECTION

WAC 392-901-025 Emergency school closure waiver—Terms and conditions. (1) The superintendent of public instruction will waive the school days and instructional hours statutory requirements that a local education agency was unable to meet in the 2019-20 school year due to an emergency school closure if:

(a) The local education agency implemented a plan that meets the minimum standards for continuous learning for the 2019-20 school year as provided under WAC 392-901-030;

(b) The local education agency's governing board adopts a resolution approving the continuous learning plan no later than May 11, 2020;

(c) The local education agency extends the school year by a minimum of an additional five school days beyond the final regularly scheduled school day of the school calendar previously adopted by the local education agency for the 2019-20 school year. Provided, nothing herein requires a local education agency to extend its school year beyond June 19, 2020. Provided further, that, pursuant to RCW 28A.150.-220 (5)(c), nothing herein precludes local educational agencies from scheduling the last five school days of the school calendar for noninstructional purposes including, but not limited to, the observance of graduation and early release from school for students who are graduating from high school;

(d) The local education agency's governing board supports the emergency waiver request; and

(e) The local education agency submits an application to the superintendent requesting an emergency waiver in accordance with WAC 392-901-035.

(2) If the superintendent waives the statutory school days and average annual instructional hour offerings requirements pursuant to this chapter, the local education agency shall receive its full annual allocation of state basic education apportionment.

NEW SECTION

WAC 392-901-030 Plan for continuous learning for all students—Minimum standards. (1) **Opportunity to learn.** A local education agency's plan for continuous learning must make available to all enrolled students the opportunity to engage in educational opportunities planned by and under the direction of local education agency staff, as directed by its administration and governing board.

(2) **Learning standards.**

(a) Under the local education agency's plan for continuous learning, administrators, principals, and teachers must determine which Washington state student learning standards, skills, and knowledge are most essential for success in students' next courses, content, grade level or post-secondary pursuit.

(b) In accordance with RCW 28A.150.240, teachers must continue to evaluate and communicate student educational growth and progress to families and school administrators on a periodic basis based on the learning standards that are taught in accordance with this subsection.

(3) **Record of student engagement.**

(a) The local education agency's plan for continuous learning must establish a district- or school-based system of collecting information regarding student engagement daily or weekly to determine if students are responding to district- or school-initiated communication and participating in continuous learning. Local education agencies are not required to collect student attendance information for the purpose of reporting student enrollment pursuant to chapter 392-121 WAC.

(b) Local education agencies must not file truancy petitions with the juvenile court under RCW 28A.225.030 for any absences occurring on or after March 17, 2020.

(4) **Academic grading.** When providing continuous learning to students, local education agencies shall award grades for assessment of student learning during school facilities closures after March 17, 2020. In awarding grades, local education agencies must meet the following standards:

(a) Local education agencies must continue using grades as a means of communicating student academic progress and determining high school credit in accordance with chapter 392-415 WAC, unless otherwise provided in this section.

(b) Local educational agencies shall not:

(i) Award a letter grade to a student that is less than the letter grade the student had earned in the course as of March 17, 2020; or

(ii) Award a numerical or nonnumerical fail or "F" grade to a student in any course completed after March 17, 2020.

(c) Local education agencies may award a nonnumerical grade of incomplete "I" to a student if:

(i)(A) The student was engaged in continuous learning after March 17, 2020, but did not meet learning standards

expectations established by the teacher prior to the close of the 2019-20 school year;

(B) The local education agency was unable to establish reliable and ongoing contact with the student after March 17, 2020; or

(C) The student declined to engage in continuous learning opportunities made available by the teacher under subsection (2) of this section and RCW 28A.150.240 after March 17, 2020.

(ii) The local education agency has developed a plan for students who receive an incomplete "I" to complete the course or demonstrate proficiency against identified learning standards at a future time.

(d) Local education agencies must provide parents an opportunity to request an incomplete for students who could not engage in continuous learning after March 17, 2020.

(e) Local education agencies must provide students multiple opportunities to demonstrate their proficiency in order to earn a passing grade.

(f)(i) A grade of "I" shall be used to indicate an incomplete course.

(ii) An incomplete "I" grade shall not be included in the calculation of a student's grade point average.

(iii) High school transcripts issued for a grading term, semester, quarter, or trimester subject to this chapter must have a notation that the grading term, semester, quarter, or trimester occurred during a school facilities closure related to the COVID-19 epidemic.

(g)(i) Local education agencies that used nonnumerical passing grades in courses or programs that began prior to March 17, 2020, may continue to use nonnumerical passing grades in those courses or programs.

(ii) A local education agency that is a party to an agreement with an institution of higher education or statewide dropout reengagement program approved under RCW 28A.175.105 regarding the awarding of credits to students may follow the grading policies in those agreements.

(iii) Under no circumstances may a student be awarded a numerical or nonnumerical fail or "F" grade for courses under this subsection.

(h) For purposes of this section, "nonnumerical grades" are marks/grades earned by students in courses that are not factored into the student's grade point average as provided in WAC 392-415-050 and 392-415-055. "Numerical grades" are letter marks/grades earned by students in courses as provided in WAC 392-415-050.

(5) **All student groups.** The local education agency plan for continuous learning must identify the local education agency's strategies for providing learning opportunities for all students, including students of color, English language learners, students in foster care, students who are low-income, students who are mobile, students experiencing homelessness, students who are migratory, students with a military parent(s), students receiving Section 504 services, students with disabilities, and students who are highly capable.

NEW SECTION

WAC 392-901-035 Emergency school closure waiver—Application to superintendent. A local education agency applying for continuation of state apportionment under this section must submit the following information on a form provided by the office of the superintendent of public instruction:

- (1) The name of the local education agency;
- (2) The name of the lead administrator of the local education agency;
- (3) A statement that the governing board of the local education agency has reviewed the application and supports its submittal;
- (4) A statement that the local education agency has implemented a plan for continuous learning for all students;
- (5) A statement that the plan for continuous learning implemented by the local education agency meets the minimum standards for continuous learning as provided in this chapter; and
- (6) Any other information as prescribed in the application form.

NEW SECTION

WAC 392-901-040 Emergency school closure—Documentation and reporting requirements. Local education agencies must:

- (1) Retain any documentation required by this chapter, including the local education agency's continuous learning plan, in accordance with established records retention schedules; and
- (2) Timely submit all data, reports, and other information requested by the superintendent of public instruction regarding the local education agency's compliance with this chapter.

WSR 20-10-043

RECISSION OF EMERGENCY RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed April 29, 2020, 8:59 a.m.]

On April 28, 2020, the Washington state office of superintendent of public instruction (OSPI) filed a CR-103E Emergency rule-making order (WSR 20-10-041) concerning emergency rule making for chapter 392-901 WAC. However, OSPI has determined that a change to the rule language is needed. Therefore, this document serves as official notification that OSPI is withdrawing the CR-103E (WSR 20-10-041).

A new emergency rule-making order (CR-103E) for chapter 392-901 WAC will be filed today.

Chris P. S. Reykdal
State Superintendent
of Public Instruction

WSR 20-10-044
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed April 29, 2020, 9:03 a.m., effective April 29, 2020, 9:03 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to establish the terms and conditions governing local education agencies' entitlement to receive state basic education apportionment allocations during the 2019-20 school year when the local education agencies could not offer the statutory minimum number of school days or annual average total instructional hour offerings due to emergency closures caused by the COVID-19 pandemic and other unforeseen events. The emergency rule making also addresses standards for continuous learning for the remainder of the 2019-20 school year.

Citation of Rules Affected by this Order: New chapter 392-901 WAC.

Statutory Authority for Adoption: RCW 28A.150.290.

Other Authority: RCW 28A.230.100, 28A.230.125, 28A.710.040(5).

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

Reasons for this Finding: On March 13, 2020, the governor ordered the statewide closure of public school facilities beginning March 17, 2020, to curtail the spread of the COVID-19 virus. On April 7, 2020, the governor extended the school closure order to the end of the school year. Given the unprecedented effects of the COVID-19 pandemic and the closure of school facilities for the remainder of the 2019-20 school year, the immediate adoption of this rule is necessary for the preservation of public health, safety, and the general welfare.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 0, Repealed 0.

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

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

Date Adopted: April 29, 2020.

Chris P. S. Reykdal
 State Superintendent
 of Public Instruction

Chapter 392-901 WAC

SPECIAL RULES FOR EMERGENCY SCHOOL CLOSURES IN THE 2019-20 SCHOOL YEAR

NEW SECTION

WAC 392-901-005 Authority. (1) The authority for this chapter is RCW 28A.150.290(2), which authorizes the superintendent of public instruction to make rules establishing the terms and conditions for allowing a school district to receive state basic education moneys when, due to an emergency school closure, the district is unable to fulfill the following statutory requirements:

- (a) One hundred eighty days of operation; or
- (b) The total program hour offerings or teacher contact hours requirements imposed by law.

(2) This chapter is further authorized by RCW 28A.150.290(1), which provides that the superintendent has the power and duty to make such rules and regulations as are necessary for the proper administration of, among other things, chapter 28A.150 RCW and RCW 28A.300.170 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out the superintendent's duties under chapter 28A.150 RCW and RCW 28A.300.170.

(3) This chapter is further authorized by RCW 28A.230.100, which provides that the superintendent shall adopt rules to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090.

(4) This chapter is further authorized by RCW 28A.230.125, which provides that the superintendent shall develop for use by all public school districts a standardized high school transcript.

(5) This chapter is further authorized under RCW 28A.710.040(5), which provides that public charter schools are subject to the supervision of the superintendent of public instruction to the same extent as other public schools.

NEW SECTION

WAC 392-901-010 Purpose. The purpose of this chapter is to establish the terms and conditions governing local education agencies' entitlement to receive state basic education apportionment allocations during the 2019-20 school year when the local education agencies could not offer the statutory minimum number of school days or annual average total instructional hour offerings due to emergency school closures caused by the COVID-19 epidemic and other unforeseen events.

NEW SECTION

WAC 392-901-015 Application. (1) Unless provided otherwise herein, this chapter supersedes chapter 392-129 WAC when chapter 392-129 WAC and this chapter are in conflict.

(2) This chapter applies to common school districts, charter public schools, and state-tribal education compact schools.

(3) This chapter shall be effective only for the 2019-20 school year.

NEW SECTION

WAC 392-901-020 Definitions. As used in this chapter, the term:

(1) "Continuous learning" means establishing and maintaining connections with students and families to provide learning materials and supports using a variety of modalities including, but not limited to, email, telephone, printed learning materials, or available online platforms, taking into account recommendations provided by the office of the superintendent of public instruction in its published guidance and as required under this chapter and applicable state and federal law.

(2) "Emergency school closure" means:

(a) An unforeseen natural event including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more local education agency facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that:

(i) Is beyond the control of a local education agency; and

(ii) Has the direct or indirect effect of rendering one or more school facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water.

An unforeseen action or inaction shall not include any labor dispute between a local education agency governing board and any of its employees.

(3) "Instructional hour" means the same as defined in RCW 28A.150.205.

(4) "Local education agency" means a common school district, charter school established under chapter 28A.710 RCW, or state-tribal education compact school operated according to the terms of a state-tribal education compact authorized under chapter 28A.715 RCW.

(5) "School day" means the same as defined in WAC 392-121-033.

(6) "School year" means the same as defined in WAC 392-121-031.

NEW SECTION

WAC 392-901-025 Emergency school closure waiver—Terms and conditions. (1) The superintendent of public instruction will waive the school days and instructional hours statutory requirements that a local education agency was unable to meet in the 2019-20 school year due to an emergency school closure if:

(a) The local education agency implemented a plan that meets the minimum standards for continuous learning for the 2019-20 school year as provided under WAC 392-901-030;

(b) The local education agency's governing board adopts a resolution approving the continuous learning plan no later than May 29, 2020;

(c) The local education agency extends the school year by a minimum of an additional five school days beyond the final regularly scheduled school day of the school calendar previously adopted by the local education agency for the 2019-20 school year. Provided, nothing herein requires a local education agency to extend its school year beyond June 19, 2020. Provided further, that, pursuant to RCW 28A.150-220 (5)(c), nothing herein precludes local educational agencies from scheduling the last five school days of the school calendar for noninstructional purposes including, but not limited to, the observance of graduation and early release from school for students who are graduating from high school;

(d) The local education agency's governing board supports the emergency waiver request; and

(e) The local education agency submits an application to the superintendent requesting an emergency waiver in accordance with WAC 392-901-035.

(2) If the superintendent waives the statutory school days and average annual instructional hour offerings requirements pursuant to this chapter, the local education agency shall receive its full annual allocation of state basic education apportionment.

NEW SECTION

WAC 392-901-030 Plan for continuous learning for all students—Minimum standards. (1) **Opportunity to learn.** A local education agency's plan for continuous learning must make available to all enrolled students the opportunity to engage in educational opportunities planned by and under the direction of local education agency staff, as directed by its administration and governing board.

(2) **Learning standards.**

(a) Under the local education agency's plan for continuous learning, administrators, principals, and teachers must determine which Washington state student learning standards, skills, and knowledge are most essential for success in students' next courses, content, grade level or post-secondary pursuit.

(b) In accordance with RCW 28A.150.240, teachers must continue to evaluate and communicate student educational growth and progress to families and school administrators on a periodic basis based on the learning standards that are taught in accordance with this subsection.

(3) **Record of student engagement.**

(a) The local education agency's plan for continuous learning must establish a district- or school-based system of collecting information regarding student engagement daily or weekly to determine if students are responding to district- or school-initiated communication and participating in continuous learning. Local education agencies are not required to collect student attendance information for the purpose of reporting student enrollment pursuant to chapter 392-121 WAC.

(b) Local education agencies must not file truancy petitions with the juvenile court under RCW 28A.225.030 for any absences occurring on or after March 17, 2020.

(4) **Academic grading.** When providing continuous learning to students, local education agencies shall award grades for assessment of student learning during school facilities closures after March 17, 2020. In awarding grades, local education agencies must meet the following standards:

(a) Local education agencies must continue using grades as a means of communicating student academic progress and determining high school credit in accordance with chapter 392-415 WAC, unless otherwise provided in this section.

(b) Local educational agencies shall not:

(i) Award a letter grade to a student that is less than the letter grade the student had earned in the course as of March 17, 2020; or

(ii) Award a numerical or nonnumerical fail or "F" grade to a student in any course completed after March 17, 2020.

(c) Local education agencies may award a nonnumerical grade of incomplete "I" to a student if:

(i)(A) The student was engaged in continuous learning after March 17, 2020, but did not meet learning standards expectations established by the teacher prior to the close of the 2019-20 school year;

(B) The local education agency was unable to establish reliable and ongoing contact with the student after March 17, 2020; or

(C) The student declined to engage in continuous learning opportunities made available by the teacher under subsection (2) of this section and RCW 28A.150.240 after March 17, 2020.

(ii) The local education agency has developed a plan for students who receive an incomplete "I" to complete the course or demonstrate proficiency against identified learning standards at a future time.

(d) Local education agencies must provide parents an opportunity to request an incomplete for students who could not engage in continuous learning after March 17, 2020.

(e) Local education agencies must provide students multiple opportunities to demonstrate their proficiency in order to earn a passing grade.

(f)(i) A grade of "I" shall be used to indicate an incomplete course.

(ii) An incomplete "I" grade shall not be included in the calculation of a student's grade point average.

(iii) High school transcripts issued for a grading term, semester, quarter, or trimester subject to this chapter must have a notation that the grading term, semester, quarter, or trimester occurred during a school facilities closure related to the COVID-19 epidemic.

(g)(i) Local education agencies that used nonnumerical passing grades in courses or programs that began prior to March 17, 2020, may continue to use nonnumerical passing grades in those courses or programs.

(ii) A local education agency that is a party to an agreement with an institution of higher education or statewide dropout reengagement program approved under RCW 28A.175.105 regarding the awarding of credits to students may follow the grading policies in those agreements.

(ii) Under no circumstances may a student be awarded a numerical or nonnumerical fail or "F" grade for courses under this subsection.

(h) For purposes of this section, "nonnumerical grades" are marks/grades earned by students in courses that are not factored into the student's grade point average as provided in WAC 392-415-050 and 392-415-055. "Numerical grades" are letter marks/grades earned by students in courses as provided in WAC 392-415-050.

(5) **All student groups.** The local education agency plan for continuous learning must identify the local education agency's strategies for providing learning opportunities for all students, including students of color, English language learners, students in foster care, students who are low-income, students who are mobile, students experiencing homelessness, students who are migratory, students with a military parent(s), students receiving Section 504 services, students with disabilities, and students who are highly capable.

NEW SECTION

WAC 392-901-035 Emergency school closure waiver—Application to superintendent. A local education agency applying for continuation of state apportionment under this section must submit the following information on a form provided by the office of the superintendent of public instruction:

(1) The name of the local education agency;

(2) The name of the lead administrator of the local education agency;

(3) A statement that the governing board of the local education agency has reviewed the application and supports its submittal;

(4) A statement that the local education agency has implemented a plan for continuous learning for all students;

(5) A statement that the plan for continuous learning implemented by the local education agency meets the minimum standards for continuous learning as provided in this chapter; and

(6) Any other information as prescribed in the application form.

NEW SECTION

WAC 392-901-040 Emergency school closure—Documentation and reporting requirements. Local education agencies must:

(1) Retain any documentation required by this chapter, including the local education agency's continuous learning plan, in accordance with established records retention schedules; and

(2) Timely submit all data, reports, and other information requested by the superintendent of public instruction regarding the local education agency's compliance with this chapter.

WSR 20-10-046
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 29, 2020, 11:18 a.m., effective April 29, 2020, 11:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is creating WAC 388-434-0015 Extension of certification periods and waiver of eligibility reviews and mid-certification reviews during the COVID-19 pandemic.

This emergency rule adoption supports ongoing access to public assistance and provides administrative flexibility, allowing extension of certification periods and waiver of eligibility reviews and mid-certification reviews, during this time of economic hardship resulting from the public health crisis created by the coronavirus.

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

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

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

Reasons for this Finding: Emergency adoption of this rule protects the health, safety, and general welfare of Washington residents by supporting ongoing access to public assistance.

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

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

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

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

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

Date Adopted: April 29, 2020.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-434-0015 Extension of certification periods and waiver of eligibility reviews and mid-certification reviews during the COVID-19 pandemic. (1) Eligibility review requirements under WAC 388-434-0005 and mid-certification review requirements under WAC 388-418-0011 are

waived during April, May, and June 2020 for the following programs:

- (a) Temporary assistance for needy families;
- (b) State family assistance;
- (c) Aged, blind or disabled cash assistance;
- (d) Housing and essential needs referral; and
- (e) Working family support.

(2) If your working family support certification period ends in April, May, or June 2020, your certification period will automatically be extended by six months.

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

(4) The department will review and act upon any new information received from clients during this time.

WSR 20-10-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-61—Filed April 29, 2020, 11:38 a.m., effective May 5, 2020]

Effective Date of Rule: May 5, 2020.

Purpose: The Washington department of fish and wildlife (WDFW) delayed turkey hunts due to COVID-19. WDFW will reopen turkey season dates starting May 5-31.

Citation of Rules Affected by this Order: Repealing WAC 220-416-01000B.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Other Authority: None.

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

Reasons for this Finding: WDFW delayed turkey hunts as part of an effort to help slow the spread of the COVID-19 coronavirus. This delay was necessary to comply with Governor Inslee's recent statewide proclamation to extend "Stay Home, Stay Healthy" for all Washingtonians through May 4. New season dates will be May 5-31.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 29, 2020.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective May 5, 2020:

WAC 220-413-01000B 2018-2019, 2019-2020, 2020-2021
Small game and other wildlife seasons and regulations. (20-56)

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-413-01000B is probably intended to be WAC 220-416-01000B.

WSR 20-10-048
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 29, 2020, 11:44 a.m., effective April 29, 2020, 11:44 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is adopting emergency amendments to WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic, extending changes to food assistance benefit issuances and implementing Supplemental Nutrition Assistance Program (SNAP) flexibilities as provided in the Families First Coronavirus Response Act (H.R. 6201, Section 2302).

This second emergency amends and supersedes the emergency rule filed as WSR 20-08-107.

Citation of Rules Affected by this Order: Amending WAC 388-437-0005.

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

Other Authority: H.R. 6201.

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

Reasons for this Finding: These changes are required to implement and extend provisions of the Families First Coronavirus Response Act (H.R. 6201, Section 2302) related to SNAP that support preservation of the public health, safety, or general welfare through access to food assistance.

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

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

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

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

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

Date Adopted: April 28, 2020.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic. (1) Starting March 2020, assistance units (AUs) eligible for either federal or state-funded food assistance, or both, will receive emergency allotments that bring the AU up to the maximum benefit for their household size.

(a) The amount is the maximum food assistance benefit allotment for your AU size under WAC 388-478-0060(1) less the amount received under WAC 388-450-0162 (4)(b).

(b) Emergency allotments will continue each month until:

(i) The secretary for health and human services rescinds the public health emergency declaration that was issued on January 27, 2020, under section 319 of the Public Health Service Act;

(ii) The state-issued emergency or disaster declaration expires; or

(iii) The food and nutrition service directs otherwise.

(c) Emergency allotments for state-funded food assistance will continue each month, contingent on the availability of state funds.

(2) If your certification period ends under WAC 388-416-0005 in April, May, or June 2020, your food benefits will be automatically extended by six months.

(3) If you are required to complete a mid-certification review under WAC 388-418-0011 in April, May, or June 2020, none will be required during this period.

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

(5) The department will review and act upon any new information we receive from you during this time.

WSR 20-10-051
EMERGENCY RULES
DEPARTMENT OF TRANSPORTATION

[Filed April 29, 2020, 2:54 p.m., effective June 2, 2020]

Effective Date of Rule: June 2, 2020.

Purpose: Chapter 468-16 WAC outlines the rules for pre-qualification of contractors for Washington state department of transportation (WSDOT) highway work in accordance with RCW 47.28.070. WAC 468-16-090 establishes that the duration of a contractor's qualifications with the department will be the remainder of the applicant's fiscal year plus two

quarters, or a total of six quarters from the ending date of the applicant's financial statement.

Due to the COVID-19 global pandemic, contractors are having a difficult time getting their financial statements prepared and audited. The federal government has extended the tax filing deadline by a quarter from April 15, 2020, to July 15, 2020. Until a contractor has filed their taxes, they cannot provide the financial statement required by subsection (8) of WAC 468-16-090. Additionally, we are hearing that there are strains on some accounting firms that contractors use to prepare or audit their financial statement which is causing delays even for contractors that can file taxes early.

Therefore we are proposing to extend the duration of a contractor's qualifications to the remainder of the applicant's fiscal year plus three quarters, or a total of seven quarters from the ending date of the applicant's financial statement.

Citation of Rules Affected by this Order: Amending WAC 468-16-090.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, and 47.28.070.

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

Reasons for this Finding: An overwhelming majority of WSDOT contractors expire on June 30, based on the December 31 end date of their financial statement. If we do not take action to extend the qualifications, most WSDOT contractors will expire and many will be unable to renew their qualifications, significantly reducing the number of contractors available to bid or construct public works highway construction projects. To complicate matters more, this would occur at the time WSDOT will be bidding most work for the year. Typically, work is bid earlier but this year we are dealing with delays in bidding work due to both the passage of I-976 as well as the COVID-19 global pandemic. Many of these projects are vital, address public safety or legal requirements such as fish barrier corrections or have critical work windows that must be met.

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

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

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

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

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

Date Adopted: April 29, 2020.

Kara Larsen, Director
Risk Management and Legal Services

AMENDATORY SECTION (Amending WSR 15-01-170, filed 12/23/14, effective 1/23/15)

WAC 468-16-090 Standard questionnaire. The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: Contract advertisement and award office. The questionnaire shall include the following information:

(1) The contractor's name, address, phone number, facsimile number, email address, and type of organization (corporation, partnership, sole proprietorship, etc.).

(2) A list of the classes of work for which the contractor seeks qualification.

(3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated or subsidiary companies.

(4) A certificate of authority from the office of the secretary of state to do business in Washington state if the applicant is an out-of-state corporation.

(5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with the affiliate firm.

(6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the immediate three years preceding application. The contract amount, contract number, date of completion, class of work; and the name, mailing address, email address, and phone number of the project owner or agency representative must be provided for those projects listed. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five completed projects must be listed.

(7) Personnel requirements.

(a) A listing of the principal officers and key employees indicating their years of experience in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought unless replacement personnel have been approved. The loss of such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel as deemed proper for making its determination. The firm's performance on department contracts must be currently rated standard or better to be used for qualification purposes.

(b) A firm must have, within its own organization, qualified permanent, full time personnel having the skills and experience including, if applicable, technical or specialty licenses, for each work class for which prequalification is sought. Those firms seeking qualification for electrical work (classes 9 and 16) must provide photocopies of current Washington state electrical licenses. The skills and experience must be substantiated by education and practical experience on completed construction projects.

(c) "Its own organization" shall be construed to include only the contractor's permanent, full time employed office and site supervisory personnel as shown on the most recently

submitted or amended prequalification questionnaire. Workers of the organization shall be employed and paid directly by the prime contractor. The term "its own organization," shall also include the equipment owned or rented by the contractor with or without equipment operators. Such term does not include employees or equipment of another contractor, sub-contractor, assignee, or agent of the applicant contractor although they are placed on the applicant contractor's payroll.

(8) A financial statement.

For a firm showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the questionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

(9) A wholly owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (8) of this section and WAC 468-16-140 (2)(b) must be fulfilled.

(10) The applicant shall list the following occurrences within the previous three years:

(a) Instances of having been denied qualification, or a license, or instances of having been deemed other than responsible by any public agency.

(b) Convictions for felonies listed in WAC 468-16-050.

(c) Failure to complete a contract.

(11) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department and sworn to before a notary public or other person authorized to take oaths.

(b) A standard questionnaire will be reviewed and a written notice provided to the applicant, within thirty days of its receipt, stating whether the applicant has been prequalified or qualification has been denied. The applicant will be advised of lack of receipt of data corroborating project completion and errors or omissions in the questionnaire and a request made for additional information necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing by certified mail (return receipt requested) of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification granted may request in writing, a review of their questionnaire and qualification ratings. The request must be filed within thirty calendar days of the date of receipt of the notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(12) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submitted in the questionnaire will be used as a basis for the contractor's initial prequalification, work class ratings, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus ~~((two))~~ three calendar quarters as established by the date of the year-end financial statement. Prequalification will be renewed annually thereafter or at other times as designated by the department.

(b) A standard questionnaire from a contractor, not previously qualified under this chapter, must have been received no less than fifteen calendar days and prequalification must be granted by the department prior to the scheduled bid opening to receive consideration for issuance of a bidding proposal for that bid opening unless the contract is under one hundred thousand dollars, in which case the department may waive the fifteen-day requirement.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared invalid and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc., or when required by the department.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information from any sources deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may, upon request, require a list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(i) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualification.

(j) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(13) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification under RCW 47.28.070 shall not be made available for public inspection

and copying, pursuant to RCW 42.56.270. The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(14) Qualified contractors will be provided with notices which list projects currently being advertised.

WSR 20-10-054
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-66—Filed April 29, 2020, 4:26 p.m., effective April 29, 2020, 4:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-12000D; and amending WAC 220-340-120.

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 open the commercial razor clam season in Razor Clam Area 2. Based on historical catches and on-site inspection, there is an adequate population of clams to support an eight-week commercial razor clam season. Washington department of health has confirmed biotoxin levels currently fall below the regulatory threshold. In addition, the governor's guidance bulletin on Proclamation 20-25 identifies commercial fishing as an "essential function" and Pacific County Health Department has amended a previous public health order to allow for the commercial razor clam digging. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 29, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-12000D Commercial razor clams. Notwithstanding the provisions of WAC 220-340-120, effective May 1 through June 30, 2020, a person may dig for and possess razor clams for commercial purposes only in those waters and detached beaches of Razor Clam Area 2 lying south of the Willapa Bay Ship Channel, west of Ellen Sands, and north of the tip of Leadbetter Point.

REPEALER

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

WAC 220-340-12000D Commercial razor clams.

WSR 20-10-055
EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed April 30, 2020, 8:43 a.m., effective April 30, 2020, 8:43 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Allow youth who wish to enter the extended foster care program to agree to, by methods other than physically signing, voluntary placement and voluntary participation agreements.

Citation of Rules Affected by this Order: Amending WAC 110-90-0110.

Statutory Authority for Adoption: RCW 74.08.090.

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

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor's proclamation directed state agencies to do everything reasonably possible to respond to and recover from the COVID-19 outbreak. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. Proclamation of the Governor 20-28 amends Proclamation 20-05 and directs state agencies to limit personal contact through social distancing and limit person-to-person contact. The department of children, youth, and families is complying with that directive by eliminating the need for social workers to meet with youth in person for the purpose of obtaining signatures while the state of emergency is in place.

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

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

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

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

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

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

Date Adopted: April 30, 2020.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-14-066, filed 6/28/19, effective 7/29/19)

WAC 110-90-0110 How does a youth agree to participate in the extended foster care program? (1) An eligible dependent youth can agree to participate by:

(a) ((Signing)) Agreeing to an extended foster care agreement; or

(b) For developmentally disabled youth, remaining in the foster care placement and continuing in an appropriate educational program.

(2) An eligible nondependent youth who did not elect to participate in the program on their eighteenth birthday can agree to participate by:

(a) ((Signing)) Agreeing to a voluntary placement agreement (VPA) before reaching age twenty-one; or

(b) Establishing a nonminor dependency before reaching age twenty-one if the department denied entry into the program.

(3) An eligible nonminor dependent youth requesting to reenter the program may agree to participate by signing a VPA prior to reaching age twenty-one.

(4) In order to continue receiving extended foster care services after entering into a VPA with the department, the youth must agree to the entry of an order of dependency within one hundred eighty days of the date that the youth is placed in foster care pursuant to a VPA.

sets the harvest and gear limitations for and opens the Puget Sound shrimp trawl fishery; and (5) requires purchase of shrimp harvested by the designated fisheries to be done by appropriately licensed dealers.

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

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

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

Reasons for this Finding: The 2020 State/Tribal Shrimp Harvest Management Plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency regulation is required to allow adequate flexibility for the state commercial shrimp fisheries to respond to dynamic changes in market conditions and ongoing changes of public health practices arising from the global COVID-19 pandemic. Sections of this regulation add additional reporting requirements to allow managers to track commercial fishing effort[s] and to limit interaction between the state commercial harvesters and recreational users. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 30, 2020.

Kelly Susewind
Director

WSR 20-10-060
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-70—Filed April 30, 2020, 4:30 p.m., effective May 1, 2020, 6:00 a.m.]

Effective Date of Rule: May 1, 2020, 6:00 a.m.

Purpose: This emergency rule (1) defines the Shrimp Management Areas and Regions open to spot and nonspot commercial harvest; (2) sets harvest restrictions for and opens the nonspot commercial pot fishery; (3) sets harvest restrictions for and opens the spot commercial pot fishery; (4)

NEW SECTION

WAC 220-340-52000L Puget Sound shrimp pot and trawl fishery—Season. Notwithstanding the provisions of WAC 220-340-520, effective 6:00 a.m. May 1, 2020, until further notice, or until they expire pursuant to RCW 34.05.-350, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp Pot Harvests:

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

(i) All waters of Marine Fish/Shellfish Management and Catch Reporting Area (Catch Area) 23A-E, 23A-W, 23A-C is closed to the harvest of non-spot shrimp.

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

(iii) In Catch Area 22A, all waters inside and bounded by a line projected from Blakely Marina on the northwest corner of Blakely Island to Upright Head on Lopez Island, following the shoreline southerly on Lopez Island to intersect a line projected due west from Bald Bluff on Blakely Island, are closed until 6:00 a.m. June 16, 2020.

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

(2) Shrimp Non-spot Pot Harvest Restrictions

(a) Effective 12:01 a.m. May 1, 2020, until further notice, the non-spot shrimp catch accounting period is weekly from Wednesday through Tuesday, totaling 7 days in length.

(b) Effective 6:00 a.m. May 1, 2020 until 11:59 p.m. May 5, 2020, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 400 pounds per catch accounting week from Shrimp Management Areas 1A, 1B, 1C, 2E and 2W combined.

(c) Effective 12:01 a.m. May 6, 2020, until further notice, it is unlawful for the combined total harvest of non-spot shrimp by a fisher or the fisher's alternate operator to exceed 600 pounds per shrimp catch accounting week from Shrimp Management Areas 1A, 1B, 1C, 2E and 2W combined.

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

(e) It is unlawful to harvest shrimp in more than one catch area per day.

(3) Shrimp Spot Pot Harvest Restrictions:

(a) Effective 12:01 a.m. May 5, 2020, until 11:59 July 14, 2020, the initial spot shrimp catch accounting period is from Tuesday, May 5, 2020 through 11:59 p.m. on Tuesday, July 14, 2020.

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

(c) Effective 6:00 a.m. May 5, 2020 until 11:59 p.m. July 14, 2020, it is unlawful for the combined total harvest of spot shrimp by a fisher or the fisher's alternate operator to exceed 2000 pounds for the initial catch accounting period from Shrimp Management Areas 1A, 1C, and 3 combined.

(d) It is lawful to commercially harvest spot shrimp from 6:00 a.m. on May 5, 2020 until 11:59 p.m. July 14, 2020, except from 12:00 a.m. May 16, 2020 to 11:59 p.m. May 17, 2020.

(e) All commercial spot shrimp gear must be retrieved by 7:59 p.m. on May 15, 2020 and cannot be deployed until 6:00 a.m. on May 18, 2020.

(f) Effective 12:00 a.m. on July 15, 2020 until further notice, the second spot shrimp catch accounting period is biweekly from Wednesday through Tuesday, totaling 14 days in length, it is unlawful for the combined total harvest of spot

shrimp by a fisher or the fisher's alternate operator to exceed 1200 pounds per catch accounting period from Shrimp Management Areas 1A, 1C, and 3 combined.

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

(h) It is unlawful to harvest shrimp in more than one catch area per day.

(4) Shrimp trawl gear:

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

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

(c) The remaining portion of Catch Area 22A within SMA 1B will open effective 6:00 a.m. May 16, 2020, until further notice.

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

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.

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

REPEALER

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

WAC 220-340-52000K Puget Sound shrimp pot and trawl fishery—Season.

**WSR 20-10-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 20-63—Filed May 1, 2020, 11:33 a.m., effective May 5, 2020]

Effective Date of Rule: May 5, 2020.

Purpose: The Washington department of fish and wildlife (WDFW) is repealing the closure of its lands, including all wildlife area units and all water access areas that are typically open for public access, effective May 5, 2020. These areas had been closed to public access due to the governor's order to "stay home, stay healthy" and are being reopened for day use only due to the Governor's Proclamation amendment 20-25.2 for the partial reopening of outdoor recreational activities.

WDFW lands remain closed to camping, until further notice, in order to comply with the social distancing and public safety precautions associated with the COVID-19 threat. We will reassess the need for the camping closure as more information becomes available.

Citation of Rules Affected by this Order: Repealing WAC 220-500-04000C.

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

Other Authority: None.

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

Reasons for this Finding: WDFW is repealing the closure of its lands, including all wildlife area units and all water access areas that are typically open for public access. These areas had been closed to public access due to the governor's order to "stay home, stay healthy" and are being reopened for day use only due to the governor's partial reopening of outdoor recreational activities.

In addition to the governor's office, this action is being coordinated with the departments of natural resources and parks and recreation as part of a broader effort to reopen state lands for recreational day use, particularly by local residents. The governor's proclamation amendment includes requirements to exclude gatherings with people who are not members of the same household and maintain social distancing for the continued protection of public health and safety.

WDFW is maintaining the emergency closure of its lands for camping as that activity encourages overnight travel and gatherings of people and presents additional challenges associated with maintaining the social distancing and sanitation measures to prevent the spread of COVID-19. Prior to the state lands closure, we saw an increase in the use of our campgrounds and data indicates that most state campground users travel significant distances to experience camping, thus increasing the potential incidence of human interaction and contact that we are all trying to minimize.

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

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

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

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

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

Date Adopted: May 1, 2020.

Kelly Susewind
Director

REPEALER

The following section of the Washington Administrative Code is repealed, effective May 5, 2020.

WAC 220-500-04000C Regulating public access.

WSR 20-10-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-64—Filed May 1, 2020, 12:05 p.m., effective May 5, 2020]

Effective Date of Rule: May 5, 2020.

Purpose: The Washington department of fish and wildlife (WDFW) will reopen the spring bear hunting season on May 5, 2020. The spring bear hunting seasons were originally scheduled to end on May 31 for Game Management Units 627, 633, 681 and 684 and on June 15 for Game Management Units 101, 105, 108, 111, 117, 121, 154, 162, 166, 169, 172, 175, 178, 181, 186, 418, 642, 648, and 638. WDFW has extended the spring bear hunting season through June 30, 2020, to give hunters opportunity that they may have lost due to the COVID-19 closure.

WDFW is also waiving the pelt sealing requirement for spring black bear as part of the state's efforts to maintain social distancing and limit the spread of COVID-19. The requirement to submit the black bear premolar tooth remains in effect per the usual procedure described in the WDFW hunting pamphlet.

Citation of Rules Affected by this Order: Repealing WAC 220-415-08000B; and amending WAC 220-415-080.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Other Authority: None.

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

Reasons for this Finding: WDFW delayed the spring bear hunt as part of an effort to help slow the spread of the COVID-19 coronavirus. This decision is necessary to comply with Governor Inslee's recent statewide proclamation to extend "Stay Home, Stay Healthy" for all Washingtonians through May 4, 2020.

WDFW is reopening the spring bear hunting season beginning May 5, 2020, due to the Governor's Proclamation amendment 20-25.2 for the partial reopening of outdoor recreational activities.

WDFW is also extending the spring bear hunting season this year through June 30, 2020. With the WDFW offices remaining closed to the public during the COVID-19 situation, to protect the public and our staff, we are temporarily suspending the pelt sealing requirement. The requirement to submit the black bear premolar tooth remains in effect per the usual procedure described in the WDFW hunting pamphlet.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

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

Date Adopted: May 1, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-415-08000C 2020 Spring black bear special permits. Effective immediately and until further notice, the following provisions of WAC 220-415-080 regarding harvest check, submitting biological samples and bear teeth, and hunt areas, permit levels, and season dates for each license year shall be as described below. All other provisions of WAC 220-415-080 not addressed herein remain in effect.

Harvest Check, Submitting Biological Samples and Bear Teeth: All successful bear hunters must validate (notch) their bear tag, notify the department within 72 hours of kill (excluding legal state holidays), provide the hunter's name, date and location of kill, and sex of animal. All permit hunters must comply with harvest reporting and submission of the black bear premolar tooth located behind the canine tooth of the upper jaw. Failure to comply with the submission of biological samples is a misdemeanor pursuant to RCW 77.15.280.

Hunt Areas, Permit Levels, and Season Dates for Each License Year:

Hunt Name	Hunt Area	Permits	Season Dates
Sherman	GMU 101 Note: Mandatory bear identification test required.	50	May 5 to June 30
Kelly Hill	GMU 105 Note: Mandatory bear identification test required.	50	May 5 to June 30
Douglas	GMU 108 Note: Mandatory bear identification test required.	40	May 5 to June 30
Aladdin	GMU 111 Note: Mandatory bear identification test required.	50	May 5 to June 30
49 Degrees North	GMU 117 Note: Mandatory bear identification test required.	100	May 5 to June 30
Huckleberry	GMU 121	100	May 5 to June 30
Blue Creek	GMU 154	18	May 5 to June 30
Dayton	GMU 162	18	May 5 to June 30
Tucannon	GMU 166	5	May 5 to June 30
Wenaha	GMU 169	60	May 5 to June 30
Mt. View	GMU 172	24	May 5 to June 30
Lick Creek	GMU 175	18	May 5 to June 30
Peola	GMU 178	5	May 5 to June 30
Couse	GMU 181	5	May 5 to June 30
Grande Ronde	GMU 186	5	May 5 to June 30
Kitsap	GMU 627	5	May 5 to June 30
Mason	GMU 633	5	May 5 to June 30
Bear River	GMU 681	20	May 5 to June 30
Long Beach	GMU 684	12	May 5 to June 30
North Skagit	That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, Weyerhaeuser-Columbia Timber Lands, and Grandy Lake Timber company. Note: Mandatory bear identification test required.	30	May 5 to June 30
Copalis	GMU 642, 648, and 638 (excluding U.S. Forest Service lands).	50	May 5 to June 30

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

REPEALER

The following section of the Washington Administrative Code is repealed effective May 5, 2020:

WAC 220-415-08000B 2020 Spring black bear special permits. (20-56a)

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

WSR 20-10-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-69—Filed May 1, 2020, 5:01 p.m., effective May 5, 2020]

Effective Date of Rule: May 5, 2020.

Purpose: This rule is needed to open salmon and steelhead seasons in the Columbia River consistent with the compact action on May 1, 2020. Washington closed fisheries statewide beginning March 25 to help combat the spread of COVID-19 in the state. Governor Jay Inslee relaxed restrictions on fishing beginning May 5.

Citation of Rules Affected by this Order: Amending WAC 2200-312-060 [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 rule is needed to reopen recreational fishing opportunities, effective May 5, 2020, pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted.

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

The fisheries were set within allowable catch levels for upriver spring Chinook and to maximize returns to hatcheries on the Cowlitz and Lewis rivers. Managers will monitor the fisheries and dam counts and adjust as necessary. Allows sockeye retention in conjunction with the steelhead fishery in the lower river opening under permanent rules. This action is

consistent with agreements reached in April during the North of Falcon season-setting process.

This rule is consistent with the compact action May 1, 2020. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 1, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000J Freshwater exceptions to statewide rules—Columbia Notwithstanding the provisions of WAC 220-312-060:

(1) From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to red navigation marker 2 at Tongue Point on the Oregon Bank to the I-5 Bridge:

a. Salmon and steelhead: Effective May 16 through June 15, 2020: Daily limit is 6, up to 2 adult salmon, 2 steelhead, or 1 adult salmon and 1 steelhead may be retained. Release all salmon other than sockeye and hatchery jack Chinook.

b. Shad: Effective May 16, 2020 until June 15:

i. No minimum size. No daily limit.

ii. Open days when salmon and steelhead are open.

(2) From a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line) to A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock:

a. Salmon and steelhead: Effective May 5, 7, 9, and 13, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

b. Shad: Effective May 5, 7, 9, and 13, 2020 until further notice:

i. No minimum size. No daily limit.

ii. Open days when salmon and steelhead are open.

(3) From a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the

western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock to Bonneville Dam:

a. Effective immediately until further notice: Closed to angling from a floating device or by any method except hand-cast lines from shore.

b. Salmon and steelhead: Effective May 5, 7, 9, and 13, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

c. Shad: Effective May 5, 7, 9, and 13, 2020 until further notice:

i. No minimum size. No daily limit.

ii. Open days when salmon and steelhead are open.

(4) From Bonneville Dam to John Day Dam:

Salmon and steelhead: Effective May 5, 7, 9, and 13, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

(5) From John Day Dam to McNary Dam:

Salmon and steelhead: Effective May 5, 7, 9, and 13, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

(6) From McNary Dam upstream to Hwy. 730 at the Washington/Oregon border:

Salmon and steelhead: Effective May 5, 7, 9, and 13: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

WSR 20-10-081**EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 20-71—Filed May 4, 2020, 12:38 p.m., effective May 5, 2020]

Effective Date of Rule: May 5, 2020.

Purpose: This emergency rule is needed to open spring Chinook seasons in areas of the Snake River, effective May 5, 2020.

Citation of Rules Affected by this Order: 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: The 2020 Columbia River forecasted return of upriver spring Chinook salmon is sufficiently abundant to allow for harvest opportunity on the Snake River based on WDFW Commission Policy C-3620. The *U.S. v. Oregon* (2018-2027) Management Agreement provides endangered species act coverage for this fishery.

This fishery is being opened pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020,

indicating that recreational activities including fishing may resume, when and where permitted beginning May 5, 2020.

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

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 4, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000Y Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective May 5, 2020 until further notice, or until they expire pursuant to RCW 34.05.350:

Snake River (Franklin/Walla Wall Counties):

(a) From Texas Rapids boat launch (south side of the river upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam:

Salmon:

(i) Open: Tuesdays and Fridays beginning May 5, 2020 until further notice:

(ii) Daily limit 4, up to 1 adult may be retained. Release all salmon other than hatchery Chinook.

(iii) Night Closure.

(iv) Barbless hooks required.

(b) From the downstream edge of the large power lines crossing the Snake River (just upstream from West Evans Road on the south shore) upstream to the Washington state line (from the east levee of the Greenbelt boat launch in Clarkston northwest across the Snake River to the WA/ID boundary waters marker on the Whitman County shore):

Salmon:

(i) Open: Wednesdays and Saturdays beginning May 6, 2020 until further notice:

(ii) Daily limit 4, up to 1 adult may be retained. Release all salmon other than hatchery Chinook.

(iii) Night Closure.

(iv) Barbless hooks required.

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

WSR 20-10-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-68—Filed May 5, 2020, 8:58 a.m., effective May 5, 2020, 8:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To partially reopen recreational fisheries, effective May 5, 2020, which were previously closed due to the COVID-19 situation and to comply with Governor Inslee's statewide proclamation to "stay home, stay healthy." Reopening some recreational fisheries is consistent with the Governor's Proclamation amendment 20-25.2 for the partial reopening of outdoor recreational activities.

Additionally, there are specific recreational fisheries that will remain closed until the expiration of this emergency rule or until further notice. These include recreational fisheries for fish and shellfish in marine areas 1-4, Columbia River fisheries for crab and spring Chinook, and Puget Sound fisheries for clams, mussels, and oysters.

Citation of Rules Affected by this Order: Repealing WAC 220-310-00100A, 220-311-00100A, 220-312-00100A, 220-313-00100A, 220-314-00100A, 220-315-00100A, 220-316-00100A, 220-320-00100A, 220-330-00100A and 220-312-060000I; and amending WAC 220-310-160, 220-310-080, 220-313-070, 220-314-020, 220-316-010, and 220-330-010.

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

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

Reasons for this Finding: This rule is needed to reopen recreational fishing opportunities, effective May 5, 2020, pursuant to the governor's proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted.

The governor's proclamation amendment also includes requirements to exclude gatherings with people who are not members of the same household and maintain social distancing for the continued protection of public health and safety. The fishery openings considered that requirement as a basis for the decision to reopen fisheries, but do not incorporate

those social distance elements within the regulations themselves. While not imposed in the Washington state department of fish and wildlife's (WDFW) fishery rules, they are and remain, a requirement of the governor's proclamation. Failure to abide by those social distance requirements could result in increased health risks requiring future fishery closures.

Coastal recreational fishing and shellfish harvesting activities as well as Puget Sound clam, oyster, and mussel seasons will remain closed until further notice, or until the rules expire on July 23, 2020, due to concerns of local and state health authorities and the lack of ability for appropriate monitoring because of COVID-19 restraints.

Additionally, the Columbia River spring Chinook seasons are set through the Columbia River Compact process. WDFW intends to work with the state of Oregon through the Columbia River Compact process to consider the opening of spring Chinook fishing seasons.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 6, Amended 0, Repealed 10.

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

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

Date Adopted: May 5, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-310-016000A Daily limits of forage fish and other food fish not otherwise provided for. Notwithstanding the provisions of WAC 220-310-160, effective May 5, 2020 until further notice, or until they expire on July 23, 2020: It is unlawful to fish for or possess forage fish or food fish not otherwise provided for in Marine Areas 1, 2, 2-1, 2-2, 3, and 4.

NEW SECTION

WAC 220-310-08000B Game fish seasons—General rules. Notwithstanding the provisions of WAC 220-310-080, effective May 5, 2020 until further notice, or until they expire on July 23, 2020: It is unlawful to fish for or possess game fish in Marine Areas 1, 2, 2-1, 2-2, 3, and 4.

NEW SECTION

WAC 220-313-07000V Coastal salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 220-313-070, effective May 5, 2020 until further notice, or until they expire on July 23, 2020: It is unlawful to fish for or possess salmon in Marine Areas 1, 2, 2-1, 2-2, 3, and 4.

NEW SECTION

WAC 220-314-02000F Possession limit—Bottomfish. Notwithstanding the provisions of WAC 220-314-020 and WAC 220-314-040, effective May 5, 2020 until further notice, or until they expire on July 23, 2020: It is unlawful to fish for or possess bottomfish or other food fish in Marine Areas 1, 2, 2-1, 2-2, 3, and 4.

NEW SECTION

WAC 220-316-01000A Sturgeon—Areas, seasons, limits and unlawful acts. Notwithstanding the provisions of WAC 220-316-010, effective May 5, 2020 until further notice, or until they expire on July 23, 2020: It is unlawful to fish for or possess sturgeon in Marine Areas 1, 2, 2-1, 2-2, 3, and 4.

NEW SECTION

WAC 220-330-01000G Shellfish—Daily limits. Notwithstanding the provisions of WAC 220-330-010, WAC 220-330-040, WAC 220-330-070, 220-330-090, 220-330-110, 220-330-140, WAC 220-330-180, effective May 5, 2020 until further notice, or until they expire on July 23, 2020:

(a) It is unlawful to harvest or attempt to harvest shellfish in Marine Areas 1, 2, 2-1, 2-2, 3, and 4.

(b) It is unlawful to harvest or attempt to harvest Dungeness crab in the Columbia River.

(c) It is unlawful to harvest or attempt to harvest clams, mussels, and oysters in Marine Areas 5, 6, 7, 8, 8-1, 8-2, 9, 10, 11, 12, and 13.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m., May 5, 2020:

- WAC 220-310-00100A Personal-use fisheries—General rules—Closure (20-53)
- WAC 220-311-00100A Personal-use fisheries—Marine specific rules—Closure (20-53)
- WAC 220-312-00100A Personal-use fisheries—Freshwater specific rules—Closure (20-53)
- WAC 220-313-00100A Personal-use fisheries—Salmon—Closure (20-53)
- WAC 220-314-00100A Personal-use fisheries—Halibut and bottomfish—Closure (20-53)

WAC 220-315-00100A Personal-use fisheries—Forage fish—Closure (20-53)

WAC 220-316-00100A Personal-use fisheries—Sturgeon—Closure (20-53)

WAC 220-320-00100A Shellfish—Definitions, classifications and general rules—Closure (20-53)

WAC 220-330-00100A Personal-use shellfish—Closure (20-53)

WAC 220-312-06000I Freshwater exceptions to statewide rules—Columbia (20-45)

WSR 20-10-099**EMERGENCY RULES****SECRETARY OF STATE**

[Filed May 6, 2020, 9:04 a.m., effective May 6, 2020, 9:04 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To allow for processing of candidate filings for office, for candidates that lack the funds to pay a filing fee, at the time of filing for office, during a declared emergency.

Citation of Rules Affected by this Order: New WAC 434-215-0251.

Statutory Authority for Adoption: RCW 29A.04.611.

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

Reasons for this Finding: During the COVID-19 health emergency, face to face meetings are prohibited by emergency order. This WAC allows for a candidate that lacks the funds to pay a filing fee for office at the time of filing to petition either by collecting signatures in lieu of the filing fee or by using their signature on an attestation that they lack the funds to pay a filing fee at the time of filing for office.

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

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

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

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

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

Date Adopted: May 6, 2020.

Mark Neary
Assistant Secretary of State

NEW SECTION

WAC 434-215-0251 Filing fee petitions during a state of emergency. During a state of emergency declared by the governor the following procedures shall be substituted for those in WAC 434-215-025 when filing fee petitions:

(1) When a candidate submits a filing fee petition in lieu of his or her filing fee, as authorized by RCW 29A.24.091, the petition must take the form of an attestation by the candidate, stating that the candidate lacks sufficient assets or income at the time of filing to pay the filing fee for the office.

(2) A candidate submitting a filing fee petition in the place of a filing fee must sign the attestation, certifying under penalty of perjury that the candidate lacks sufficient assets or income at the time of filing to pay the filing fee.

(3) A candidate submitting a filing fee petition must submit the attestation when filing the declaration of candidacy.

(4) The filing officer shall verify the candidate has submitted a filing fee petition in the place of a filing fee that includes a signed attestation certifying a lack of sufficient assets or income to pay the filing fee.

**WSR 20-10-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 20-73—Filed May 6, 2020, 9:28 a.m., effective May 6, 2020, 9:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends commercial coastal troll rules, seasons and areas.

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

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

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

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

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

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

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

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

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

Date Adopted: May 6, 2020.

Amy Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-354-3000V Coastal salmon troll seasons—Commercial. Notwithstanding the provisions of WAC 220-354-300, 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 provided below:

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

May 6 through June 28, 2020.

(2) In Washington Catch Reporting Areas 1, 3 and 4, landing and possession limit of 75 Chinook per vessel per landing week, defined as Thursday through Wednesday.

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

(4) Minimum size for Chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(5) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(6) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section. Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW by phone at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov with Area fished, total Chinook and halibut catch aboard, and destination. 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. For delivery to Washington ports east of the Sekiu River, vessels must notify WDFW at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov prior to crossing the Bonilla-Tatoosh line with area fished, total Chinook and halibut catch aboard, and destination with approximate time of delivery. For delivery to Washington ports south of Leadbetter Point, vessels must notify WDFW at (360) 249-1215 or by email at Wendy.Beeghley@dfw.wa.gov prior to crossing the Leadbetter Point line with area

fished, total Chinook and halibut catch aboard, and destination with approximate time of delivery. Vessels may not land fish east of Port Angeles or east of the Megler-Astoria bridge. During any single trip, only one side of the Leadbetter Point line may be fished. Vessels fishing or in possession of salmon south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter Point.

(7) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. Exclusive Economic Zone, and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude, and east of 125°05'00" W longitude.

(8) The Columbia Control Zone is defined as an area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" W. long, to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N. lat., 124°05'20" W. long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) The Mandatory Yelloweye Rockfish Conservation Area is defined as the area in Washington Marine Catch Area 3 from 48°00.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°14.00' W longitude to 48°02.00' N latitude; 125°16.50' W longitude to 48°00.00' N latitude; 125°16.50' W longitude and connecting back to 48°00.00' N latitude; 125°14.00' W longitude.

(10) 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.

(11) 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 trollfistickets@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.

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

WSR 20-10-117
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-72—Filed May 6, 2020, 11:11 a.m., effective May 16, 2020]

Effective Date of Rule: May 16, 2020.

Purpose: This emergency rule is needed to open a hatchery spring Chinook fishery in a portion of the Skagit River, starting May 16.

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

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

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

Reasons for this Finding: Sufficient numbers of hatchery spring Chinook are forecasted to return to the Skagit River to allow for a harvest fishery. This fishery has been agreed to with comanagers during the 2020 North of Falcon process and will be actively monitored. Should total encounters reach the agreed to threshold, the fishery may close earlier than scheduled.

This fishery is being opened pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted beginning May 5, 2020.

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

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: May 6, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000K Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040:

Skagit River, from the hwy. 536 bridge (Memorial Hwy. Bridge) in Mt. Vernon to Gilligan Creek:

Salmon; Open May 16 through May 31, 2020. Daily limit 2. Release all salmon other than hatchery Chinook. Night closure in effect.

REPEALER

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

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

WSR 20-10-118
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed May 6, 2020, 11:48 a.m., effective May 6, 2020, 11:48 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is adopting emergency amendments to WAC 388-466-0120 Refugee cash assistance (RCA). Based on federal waiver approval from the federal Office of Refugee Resettlement (ORR), these amendments will implement extended RCA benefits during this time of economic hardship caused by the COVID-19 (also known as coronavirus) pandemic.

Citation of Rules Affected by this Order: Amending WAC 388-466-0120.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090.

Other Authority: 45 C.F.R. § 400.300.

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

Reasons for this Finding: Emergency adoption of this rule protects the health, safety, and general welfare of Washington residents by supporting ongoing access to public assistance under the RCA program during this time of economic hardship caused by the COVID-19 (also known as coronavirus) pandemic.

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

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

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

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

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

Date Adopted: May 6, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-03-137, filed 1/23/13, effective 2/23/13)

WAC 388-466-0120 Refugee cash assistance (RCA).
(1) Who can apply for refugee cash assistance (RCA)?

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within thirty days.

(2) How do I know if I qualify for RCA?

You may be eligible for RCA if you meet all of the following conditions:

(a) You have resided in the United States for less than eight months;

(b) You meet the immigration status requirements of WAC 388-466-0005;

(c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;

(d) You meet the work and training requirements of WAC 388-466-0150; and

(e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.

(3) What are the other reasons for not being eligible for RCA?

You may not be able to get RCA if you:

(a) Are eligible for temporary assistance for needy families (TANF) or supplemental security income (SSI); or

(b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within thirty consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

(5) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?

You are eligible for RCA to the same extent as a refugee if you are:

(a) An adult victim, eighteen years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS), and you meet eligibility requirements in subsections (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter;

(b) A child victim under the age of eighteen, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement;

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

(6) Does getting a onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

(7) What is the effective date of my eligibility for RCA?

The date DSHS has sufficient information to make eligibility decision is the date your RCA begins.

(8) When does my RCA end?

(a) Your RCA ends on the last day of the eighth month starting with the month of your arrival to the United States. Count the eight months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, 2000, May is your first month and December 2000 is your last month of RCA.

(b) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA.

(c) You may receive RCA benefits for more months if the federal office of refugee resettlement extends your eligibility period.

(9) Are there other reasons why RCA may end?

Your RCA also ends if:

(a) You move out of Washington state;

(b) Your unearned income and/or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) Will my spouse be eligible for RCA, if he/she arrives in the U.S. after me?

When your spouse arrives in the United States, DSHS determines his/her eligibility for RCA and/or other income assistance programs.

(a) Your spouse may be eligible for up to eight months of RCA based on his/her date of arrival into the United States.

(b) If you live together, you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on you and your spouse's combined income and resources (WAC 388-466-0140).

(11) Can I get additional money in an emergency?

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

(12) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or an administrative hearing (WAC 388-02-0090). Your request must be made within ninety days of the date of the decision or action.