

WSR 24-08-001

RESCISSION OF EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed March 20, 2024, 1:27 p.m.]

This memo serves as notice that the department of health (department) is rescinding CR-103E filed as WSR 24-07-062 amending WAC 246-341-0200 and 246-341-0515 in chapter 246-341 WAC, Behavioral health agency licensing and certification requirements, and WAC 246-810-010, 246-810-015, and 246-810-990 in chapter 246-810 WAC, Counselors. This filing contained only one of the two OTS documents that were needed for the filing. This rule was refiled on March 4, 2024, with both OTS documents, and returned as WSR 24-07-100.

Individuals requiring information on this should contact Erin Brewster, policy coordinator, email erin.brewster@doh.wa.gov, or phone 360-545-7315.

Tami M. Thompson
Regulatory Affairs Manager

**WSR 24-08-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 24-43—Filed March 20, 2024, 3:54 p.m., effective March 26, 2024]

Effective Date of Rule: March 26, 2024.

Purpose: This emergency rule is needed to open recreational razor clam seasons.

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

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

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

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

Date Adopted: March 20, 2024.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 a.m. March 26 through 11:59 a.m. March 29, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

Razor Clam Area	Date	Time
Area 1	March 27 through March 29	From 12:01 a.m. to 11:59 a.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	March 28 and 29	From 12:01 a.m. to 11:59 a.m.
Area 4	March 26 and 29	From 12:01 a.m. to 11:59 a.m.
Area 5	March 27 and 28	From 12:01 a.m. to 11:59 a.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) Effective 12:01 a.m. March 30 through 12:59 p.m. March 31, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

Razor Clam Area	Date	Time
Area 1	March 30 and 31	From 12:01 a.m. to 12:59 p.m.
Area 2	Closed	Closed
Area 3	March 30 and 31	From 12:01 a.m. to 12:59 p.m.
Area 4	March 30	From 12:01 a.m. to 12:59 p.m.
Area 5	March 31	From 12:01 a.m. to 12:59 p.m.
Area 6	Closed	Closed

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

REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. April 1, 2024:

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

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 24-08-008
EMERGENCY RULES
COUNTY ROAD

ADMINISTRATION BOARD

[Filed March 21, 2024, 11:27 a.m., effective March 21, 2024, 11:27 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The county road administration board administers the rural arterial program which provides grant funds for capital improvements on county road arterials and collectors. Counties may request an increase in funding for a project. Currently, that request is capped at 25 percent of the grant amount. This emergency WAC amendment will eliminate the 25 percent cap on the amount a county may request.

Citation of Rules Affected by this Order: Amending WAC 136-165-020.

Statutory Authority for Adoption: RCW 36.79.060(1).

Other Authority: RCW 36.78.070(6).

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 current 25 percent limit on project increase requests is causing counties to delay capital improvements that are necessary for the safe and efficient movement of people and freight on county roads. Counties are having to delay projects while they attempt to find additional grant funds needed due to the increase in the cost of the project. This change is intended to assist the counties with making these critical public safety improvements as quickly as possible.

The county road administration board will also be working to adopt this WAC amendment on a permanent basis.

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

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

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

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

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

Date Adopted: March 21, 2024.

Jane Wall
Executive Director

OTS-5287.1

AMENDATORY SECTION (Amending WSR 23-23-013, filed 11/2/23, effective 12/3/23)

WAC 136-165-020 Requirements for consideration of RATA fund increases. (1) When a county submits its final prospectus as described in WAC 136-161-050, the county road administration board presumes that the amount of RATA funds requested, plus any non-RATA funds that may be designated for the project, are sufficient to fully, and in a timely manner, complete the project as described.

(2) All cost increases during the course of construction shall be the responsibility of the county. In extraordinary circumstances, a county may request an increase in the amount of RATA funds allocated to a project. A county may request an increase in a project's RATA allocation once during the course of a project's development, and such request may occur only after completion of preliminary engineering, but prior to commencing construction. A project shall be considered to have commenced construction if:

(a) The construction contract for the work has been awarded; or

(b) If done by county forces, the work has commenced, except for construction engineering.

~~((Requests for increases in excess of 25 percent of the original RATA allocation will not be considered or granted; the county must secure other funds, withdraw or request the termination of the project, or request a change in scope and/or project limits. If current funding sources are not sufficient to cover the costs beyond a 25 percent increase, the county may resubmit the same project for funding in the next funding period. Upon funding of the new project by the county road administration board, the previous contract shall become void. All RATA funds expended on the previous contract shall be repaid to the county road administration board unless waived by the county road administration board in keeping with provisions of WAC 136-167-030.))~~

(3) A request by a county for an increase in RATA funds allocated to a project shall demonstrate that:

(a) The county at the time of preparing its final project prospectus considered the factors listed in subsection (4) of this section;

(b) The request for an increased allocation is based on extraordinary and unforeseeable circumstances of the type listed in subsection (5) of this section;

(c) It is not feasible to reduce the scope and/or project limits so the project can be substantially constructed within the initial RATA allocation;

(d) The request is not to pay for an expansion of the originally approved project;

(e) If the work is to be done by contract, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, advertisement of the project for construction bids; and

(f) If the work is to be done by county forces, the county has supplied to the CRABoard, an updated engineer's cost estimate prior to, and within three months of, commencement of the work.

(4) At the time of preparation and submittal of the final project prospectus, a county is expected to consider all information which may affect the cost of the project. In cases where the information is incomplete or poorly defined, the county is to exercise good professional judgment and/or seek outside professional assistance and advice in order to prepare a reasonable RATA fund request. The information which

a county is expected to consider includes, but is not limited to, the following:

- (a) The availability at the needed time of matching funds and other supplementary funds;
- (b) All technical data reasonably available such as topographic maps, reconnaissance reports, surface and subsurface geotechnical data, hydraulic and hydrological data, sources of materials, applicable design standards, and any earlier preliminary engineering;
- (c) Required permits, including preproject scoping consultations with the permitting agencies and an estimate of the costs of complying with permit requirements;
- (d) Required right of way or other easements, and the time and cost of acquisition;
- (e) Availability of qualified contractors to perform the work;
- (f) Ownership, type, amount, and time requirements of any required utility relocation;
- (g) Historical and projected labor, equipment and material costs; and
- (h) The project development timetable leading to completed construction and the interrelation of this project to all other work activities under the control of the county engineer.

(5) The county road administration board will increase RATA funds allocated to a project only if it finds that the request for an increased allocation is based on extraordinary and unforeseeable circumstances, including but not limited to the following:

- (a) The county relied on existing technical data which were later found to be in error, and which will necessitate a significant design change prior to proceeding with construction;
- (b) Project permit requirements were substantially changed, or new permits were required;
- (c) Supplementary funds, such as impact fees, developer contributions, grants, etc., which were forecasted to be available for the project, were withdrawn or otherwise became unavailable;
- (d) Design or other standards applicable to the project were changed;
- (e) The start of construction will be significantly delayed or additional construction requirements will be added as a direct result of legal action; provided however, that the failure of a county to exercise its statutory powers, such as condemnation, will not be grounds for increasing RATA funds; and/or
- (f) The lowest responsive bid for construction exceeds the amount of available funding for construction; provided that said bid is determined by the county engineer to be reasonable and the increased cost of the bid can be justified.

WSR 24-08-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-44—Filed March 22, 2024, 3:48 p.m., effective March 22, 2024, 3:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to allow pots in excess pot limits to be loaded aboard a vessel 48 hours prior to pot limits being lifted. This rule will also set the removal of pot limits within the Quinault primary special management area while setting seasons and pot limits within the Quinault secondary special management area.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000V and 220-340-45000P; 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 necessary to allow vessels fishing inside the Quinault U&A to prepare and load gear on the vessel prior to pot limits being lifted at 8:00 a.m., March 25, 2024. Additionally, provisions of the State/Makah Harvest Management Agreement allow for the opening of Makah special management area to state license holders and specify a temporary pot limit. The status of state-tribal harvest sharing allows for the removal of temporary reduced pot limit in the Quinault Indian Nation usual and accustomed fishing area and conforms with current state/tribal agreements regarding in-season modifications.

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

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

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

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

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

Date Adopted: March 22, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000W Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420 and WAC 220-340-480, effective immediately, until further notice:

(1) Effective immediately through 7:59 a.m. March 25, 2024, it is unlawful for persons participating in the Coastal or Grays Harbor commercial Dungeness crab fishery to deploy or fish more than the following specified reduced pot limit assigned to each license if a vessel is fishing in the Quinault Indian Nation Usual and Accustomed Fishing Area as described in 50 CFR Part 660.4:

(a) Licenses with a permanent pot limit of 500 are assigned a reduced pot limit of 400 pots.

(b) Licenses with a permanent pot limit of 300 will be assigned a reduced pot limit of 250 pots.

(c) It is unlawful to fail to maintain onboard any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

(d) It is unlawful to store or possess crab pots on board any participating vessel in excess of the vessels pot limit.

(e) It is unlawful to load pots with buoy tags attached in excess of the pot limits described within this section more than 48-hours prior to pot limits being lifted.

(2) Effective 8:00 a.m. March 25 through 7:59 a.m. April 24, 2024: It is unlawful for a vessel to use more than 200 pots in the area between Split Rock (47°24.50) and Raft River (47°28.00) shoreward of a line approximating the 27-fathom depth curve. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the following methods:

(a) E-mail to Jamie Fuller at Jamie.Fuller@dfw.wa.gov; or

(b) Telephone call to Jamie Fuller at 360-580-0875.

(3) Effective immediately, through April 1, 2024, it is unlawful for a vessel to use more than 200 pots in the Makah SMA.

(a) The Makah special management area (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:

(i) Northeast Corner (Tatoosh Island)

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

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

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

(b) Fishers within the Makah SMA must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the two following methods:

(i) E-mail to Jamie Fuller at Jamie.Fuller@dfw.wa.gov; or

(ii) Telephone call to Jamie Fuller at 360-580-0875.

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

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

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.

NEW SECTION**WAC 220-340-45000Q 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:

(1) Open area (except for areas and times listed in sections (2), (3), and (4) below): The area from the WA/OR border (46°15.00) to the U.S./Canada border, including Willapa Bay and Grays Harbor.

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 Quinault primary special management area (PSMA) is closed to fishing for Dungeness crab, effective immediately, through 7:59 a.m. March 25, 2024. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:

(a) Northeast Corner (Raft River): 47°28.00 N. Lat. 124°20.70 W. Lon.

(b) Northwest Corner: 47°28.00 N. Lat. 124°34.00 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 Quinault secondary special management area (SSMA) is closed to fishing for Dungeness crab, effective 8:00 AM March 25, 2024, until further notice. The SSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Split Rock (47°24.50) and Copalis River (47°08.00) according to 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.

(4) The Quileute special management area (SMA) is closed to fishing for Dungeness crab, effective immediately, 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.

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

REPEALER

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

WAC 220-340-42000V Commercial crab fishery—Unlawful acts—
Coastal. (24-33)

WAC 220-340-45000P Commercial crab fishery—Season and
areas—Coastal. (24-27)

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 24-08-020
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed March 25, 2024, 10:11 a.m., effective March 25, 2024, 10:11 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In alignment with SHB [2SHB] 1550, passed by the Washington state legislature in 2023, the emergency rules establish the transition to kindergarten program. The rules provide for the administration of, the allocation of state funding for, and minimum standards and requirements for the transition to kindergarten program for the 2023-24 school year.

This is a renewal of emergency rule filing as the office of superintendent of public instruction continues to conduct permanent rule making concerning transition to kindergarten programs. The permanent rules are anticipated to be effective by the 2024-25 school year.

Citation of Rules Affected by this Order: New chapter 392-425 WAC; and amending WAC 392-121-106, 392-121-107, 392-121-122, 392-121-137, 392-121-182, 392-122-430, 392-122-435, 392-122-440, 392-122-450, 392-122-500, 392-122-505, 392-122-510, 392-122-515, 392-122-520, 392-122-605, 392-122-805, and 392-122-810.

Statutory Authority for Adoption: 2SHB 1550 (chapter 420, Laws of 2023); and RCW 28A.150.290.

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

Reasons for this Finding: The emergency rules are necessary to establish the transition to kindergarten program for the 2023-24 school year, as directed by SHB [2SHB] 1550, passed by the Washington state legislature in 2023. The emergency rules establish expectations and requirements for local education agencies in implementing and administering transition to kindergarten programs for the 2023-24 school year.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 17, Repealed 0.

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

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

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

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

Date Adopted: March 25, 2024.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-4751.1

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

WAC 392-121-106 Definition—Enrolled student. As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because he or she:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district he or she resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250);

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.260; or

(g) Will be attending a public charter school, as defined by RCW 28A.710.010, located within Washington state.

(2) After the close of the prior school year has presented himself or herself, or has been presented, to the school district's or charter school's appropriate official to be entered on the school district's or charter school's rolls for the purpose of attending school in grades kindergarten through ~~((twelve))~~ 12 and transition to kindergarten program;

(3) Is under ~~((twenty-one))~~ 21 years of age at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school year on or prior to the date being counted, in a course of study offered by the school district or charter school as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

AMENDATORY SECTION (Amending WSR 16-11-104 [23-16-093], filed 5/18/16 [7/31/23], effective 6/18/16 [8/31/23])

WAC 392-121-107 Definition—Course of study. As used in this chapter, "course of study" means those activities for which students enrolled pursuant to chapters 180-16, 180-51, 392-169, 392-134, and 392-410 WAC may be counted as enrolled students for the purpose of full-time equivalent student enrollment counts.

(1) Course of study includes:

(a) Instruction - Teaching/learning experiences conducted by school district staff as directed by the administration and the board of directors of the school district, or teaching/learning experiences conducted by charter school staff as directed by the charter school administration and charter school board, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences that are planned and scheduled by the district or charter school for the purpose of discussing students' educational needs or progress, and exclusive of time for meals.

(b) Alternative learning experience - Alternative learning experience provided by the school district or charter school in conformance with WAC 392-121-182.

(c) Instruction provided by a contractor - Instruction provided by a contractor in conformance with WAC 392-121-188 or 392-121-1885.

(d) National guard - Participation in a national guard high school career training program for which credit is being given toward either required or elective high school credits pursuant to RCW 28A.300.165 and WAC 392-410-320.

(e) Ancillary service - Any cocurricular service or activity, any health care service or activity, and any other services or activities, for or in which enrolled students are served by appropriate school district or charter school staff. The term shall include, but not be limited to, counseling, psychological services, testing, remedial instruction, speech and hearing therapy, health care services, and if such service is provided by the district or charter school, certificated contact time pursuant to RCW 28A.225.010 (4) (a) with students who are in a home-based instruction program. The term shall exclude all extracurricular activities and all other courses of study defined in this section. In conformance with WAC 392-134-025, school districts and charter schools report the actual number of student contact hours of ancillary service for part-time, private school, and home-based students to the superintendent of public instruction.

(f) Work based learning - Training provided pursuant to WAC 392-410-315 and reported as provided in WAC 392-121-124.

(g) Running start - Attendance at an institution of higher education pursuant to RCW 28A.600.300 through 28A.600.400, chapter 392-169 WAC.

(h) Transition school - Participation in the University of Washington's transition school and early entrance program pursuant to RCW 28A.185.040, and chapter 392-120 WAC. Such participation shall be reported by the University of Washington and shall not be reported by a school district or charter school.

(i) Technical college direct funding - Enrollment at a technical college pursuant to RCW 28A.150.275 and WAC 392-121-187. Such participation shall be reported by the technical college and shall not be reported by a school district unless the technical college and the school district agree to have the school district report such enrollment.

(j) Dropout reengagement program - Enrollment in a state approved dropout reengagement program pursuant to RCW 28A.175.100 and chapter 392-700 WAC.

(k) Paid work experience - Training provided in accordance with WAC 392-410-316 and reported as provided in WAC 392-121-139.

(1) Transition to kindergarten under Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC.

(2) Course of study does not include:

(a) Home-based instruction pursuant to RCW 28A.225.010(4): Education programs provided by a parent which do not meet the requirements of WAC 392-121-182 cannot be claimed for state funding;

(b) Private school instruction pursuant to chapter 28A.195 RCW;

(c) Adult education as defined in RCW 28B.50.030(12);

(d) Instruction provided to students who do not reside in Washington state (RCW 28A.225.260);

(e) Enrollment in state institutions, i.e., state operated group homes, county juvenile detention centers, state institutions for juvenile delinquents, county and city adult jails, and state residential habilitation centers;

(f) Instruction preparing a student for the general education development (GED) test if such instruction generates state or federal moneys for adult education;

(g) Enrollment in education centers except as provided under contract with a school district pursuant to RCW 28A.150.305 and WAC 392-121-188 or 392-121-1885;

(h) Enrollment for residents of the Washington state school for the deaf and the Washington state school for the blind;

(i) Extracurricular activities including but not limited to before and after school activities such as classes, sports and other activities offered outside the regular curriculum or for which credit is not earned; or

(j) Attendance at universities, colleges, community colleges, or technical colleges of students not earning high school credit.

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

AMENDATORY SECTION (Amending WSR 17-16-162, filed 8/2/17, effective 9/2/17)

WAC 392-121-122 Definition—Full-time equivalent student. As used in this chapter, "full-time equivalent student" means each enrolled student in the school district or charter school as of one of the enrollment count dates for at least the minimum number of hours set forth in subsection (1) of this section, inclusive of class periods and normal class change passing time, but exclusive of meal intermissions: Provided, That each hour counted shall contain at least 50 minutes of instruction or supervised study provided by appropriate instructional staff. The purpose of recognizing "50 minute hours" is to provide flexibility to school districts and charter schools which utilize block periods of instruction so long as students are ultimately under the jurisdiction of school staff for the equivalent of 60 minute hours: Provided further, That the hours set forth below shall be construed as annual average hours for the purposes of compliance with this chapter.

(1)(a) Prior to the 2018-19 school year, the minimum hours for each grade are as follows:

(i) Kindergarten: 20 hours each week, or 4 hours (240 minutes) for each scheduled school day;

(ii) Primary (grades 1 through 3): 20 hours each week, or 4 hours (240 minutes) each scheduled school day;

(iii) Elementary (grades 4 through 6): 25 hours each week, or 5 hours (300 minutes) each scheduled school day;

(iv) Secondary (grades 7 through 12): 25 hours each week, or 5 hours (300 minutes) each scheduled school day.

(b) Beginning with the 2018-19 school year, the minimum hours for all grades and transition to kindergarten programs are 27 hours and 45 minutes each week (1,665 weekly minutes), or 5 hours and 33 minutes (333 minutes) for each scheduled school day.

(2) Except as limited by WAC 392-121-136, a student enrolled for less than the minimum hours shown in subsection (1) of this section shall be counted as a partial full-time equivalent student.

(a) Prior to the 2018-19 school year, a student's partial full-time equivalent is the student's weekly enrolled hours divided by the minimum hours for the student's grade level set forth in subsection (1)(a) of this section.

(b) Beginning with the 2018-19 school year, a student's partial full-time equivalent is the student's weekly enrolled minutes divided by 1,665.

(3) The full-time equivalent of a student's running start enrollment pursuant to RCW 28A.600.300 through 28A.600.400 shall be determined pursuant to chapter 392-169 WAC. If a running start student is enrolled both in high school courses provided by the school district or charter school and in running start courses provided by the college, the high school full-time equivalent and the running start full-time equivalent shall be determined separately.

(4) The full-time equivalent of University of Washington transition school students shall be determined pursuant to chapter 392-120 WAC.

(5) The full-time equivalent of a student's alternative learning experience shall be determined pursuant to WAC 392-121-182.

AMENDATORY SECTION (Amending WSR 17-16-162, filed 8/2/17, effective 9/2/17)

WAC 392-121-137 Full-time equivalent enrollment of students with a disability. In determining the full-time equivalent enrollment of students reported as students with a disability pursuant to chapter 392-172A WAC, the following rules apply:

(1) If the student is enrolled exclusively in an ungraded special education program, the student's grade level shall be based on the typical grade level of students of the same age (e.g., a student who is six years old at the beginning of the school year shall be counted as a first grader).

(2) If the student is enrolled in a grade level below the typical grade level of students of the same age, the school district or charter school shall have the option of counting the student in the grade enrolled or the typical grade level of students of the same age.

(3) A student with a disability who is five years old at the beginning of the school year may be counted as a kindergarten student only if the student is enrolled in a kindergarten program and is provided special education services in addition to the kindergarten program.

(4) A student with a disability and enrolled in a transition to kindergarten program may be counted for transition to kindergarten funding.

AMENDATORY SECTION (Amending WSR 20-15-062, filed 7/10/20, effective 8/10/20)

WAC 392-121-182 Alternative learning experience requirements.

(1) **Scope.** This section applies solely to school districts and charter schools claiming state funding pursuant to WAC 392-121-107 for an alternative learning experience.

(2) **Requirements.** A school district or charter school must meet the requirements of this section and chapter 392-550 WAC to count an alternative learning experience as a course of study pursuant to WAC 392-121-107.

(3) **Student eligibility.** A student enrolled in an alternative learning experience course must meet the following conditions:

(a) The student must meet the definition of an enrolled student under WAC 392-121-106;

(b) The student is enrolled in grades K-12;

(c) The student must not meet any of the enrollment exclusions in WAC 392-121-108;

~~((e))~~ (d) The student's residence must be in Washington state as provided in WAC 392-137-115; and

~~((d))~~ (e) For students whose residence is not located in the school district providing an alternative learning experience course (nonresident student), the district must:

(i) Document the school district in which the nonresident student's residence is located;

(ii) Establish procedures that address, at a minimum, the coordination of student counting for state funding so that no enrolled student is counted for more than one full-time equivalent in the aggregate. The procedure must include, but not be limited to, the following:

(A) When a resident district and one or more nonresident district(s) will each be claiming basic education funding for a student in the same month or months, the districts must execute a written agreement that at minimum identifies the maximum aggregate basic education funding each district may claim for the duration of the agreement. A nonresident district may not claim funding for a student until after the effective date of the agreement.

(B) When a district is providing alternative learning experiences to nonresident students under the school choice enrollment provisions of RCW 28A.225.200 through 28A.225.230 and chapter 392-137 WAC, the district may not claim funding for the student until after a release transfer is completed by the resident district and the nonresident serving district.

(4) **Enrollment count dates.**

(a) Alternative learning experience enrollment is claimed based on the monthly count dates as defined in WAC 392-121-119.

(b) For alternative learning experience programs that end prior to June 1st, the June enrollment count date may be the last school day in May and include students whose written student learning plan pursuant to WAC 392-550-025(1) has an ending date that is the last school day in May.

(c) Graduating alternative learning experience students whose last school day is in May may be included in the June enrollment count if the following conditions are met:

(i) The alternative learning experience program calendar identifies that the last day of school for the graduating students is in May; and

(ii) The student's written student learning plan pursuant to WAC 392-550-025(1) includes an end date that is the last day of school for graduating students in May.

(5) **Reporting of student enrollment.**

(a) For the first time a student's alternative learning experience enrollment is claimed for state funding, the following requirements must be met:

(i) A completed written student learning plan pursuant to WAC 392-550-025(1) is in place with a start date that is before the monthly count day; and

(ii) There is documented evidence of student participation as required by WAC 392-121-106(4).

(b) On subsequent monthly count dates, a student's alternative learning experience course(s) can be claimed for state funding if the following requirements are met:

(i) A completed written student learning plan pursuant to WAC 392-550-025(1) is in place on the monthly count date;

(ii) The contact requirement pursuant to WAC 392-550-025(2) was met in the prior month;

(iii) The monthly progress evaluation requirement pursuant to WAC 392-550-025(3) was met in the prior month; and

(iv) If the monthly progress evaluation showed unsatisfactory progress, the intervention plan requirement pursuant to WAC 392-550-025(4) is met.

(c) Students must be excluded from the monthly count including students who have not had contact with a certificated teacher for (~~twenty~~) 20 consecutive school days. Any such student must be excluded from the monthly count until the student has met with a certificated teacher and resumed participation in their alternative learning experience or is participating in another course of study as defined in WAC 392-121-107.

(d) The student count must exclude students who as of the enrollment count date have completed the requirements of the written student learning plan prior to ending date specified in the plan and who have not had a new written student learning plan established with a new beginning and ending date that encompasses the count date.

(6) **Student full-time equivalency.**

(a) The full-time equivalency of students enrolled in alternative learning experiences is based on the estimated average weekly hours of learning activity described in the written student learning plan.

(b) Pursuant to WAC 392-121-122, (~~twenty-seven~~) 27 hours and (~~forty-five~~) 45 minutes each week (~~((one thousand six hundred sixty-five)) 1,665~~ weekly minutes) equal one full-time equivalent.

(c) Enrollment of part-time alternative learning experience students is subject to the provisions of chapter 392-134 WAC and generates a pro rata share of full-time funding based on the estimated average weekly minutes of learning activity described in the written student learning plan divided by (~~((one thousand six hundred sixty-five)) 1,665~~ weekly minutes).

(d) Kindergarten students claimed for more than a 0.50 full-time equivalent must meet the state-funded full-day kindergarten requirements, as provided for in RCW 28A.150.315.

(e) The full-time equivalent limitations outlined in WAC 392-121-136 and the nonstandard school year limitations outlined in WAC 392-121-123 apply to alternative learning enrollment.

OTS-4752.1

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-430 Physical, social, and emotional support (PSES) staff—Apportionment of state moneys. (1) State moneys for PSES staff shall be allocated as provided in this chapter.

(2) PSES staff allocations based on the prototypical school formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for PSES staff will be based upon budgeted assumptions as provided in the F-203 revenue estimate from September through December for the year budgeted.

(3) School districts, charter schools, and tribal compact schools must input their estimated PSES staffing penalty units, if applicable, for purposes of funding from September through December.

(4) Enrollment will only include student full-time equivalent (FTE) enrolled in the general education program 01 as defined in RCW 28A.150.260 and transition to kindergarten program 09 as defined in Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC.

(5) Funded ratios starting with January apportionment will be based on actual average annual FTE enrollment reported in the P-223.

(6) School districts, charter schools, and tribal compact schools must meet the legislative compliance requirements of PSES staffing to generate the full allotment.

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-435 Physical, social, and emotional support (PSES)—Student enrollment. (1) Grade level and transition to kindergarten enrollment reported on the P-223 will be considered in the compliance calculations for January, March, and June.

(2) Only students in program 01 - Basic education and program 09 - Transition to kindergarten will be included in the calculation. Enrollment in career and technical education, skill center, alternative learning experience, open doors, and running start programs will be excluded from the calculation.

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

WAC 392-122-440 Physical, social, and emotional support (PSES)—Staff. (1) The superintendent of public instruction will include in the calculation of PSES compliance of those staff that are coded in programs 01, 09, or 97 to one of the following duty root and activity code combinations:

- Duty root 39 - All activities - Orientation and mobility specialist;
- Duty root 42 - All activities - Counselor;

- Duty root 43 - All activities - Occupational therapist;
 - Duty root 44 - All activities - Social worker;
 - Duty root 45 - All activities - Speech, language pathology/
audio;
 - Duty root 46 - All activities - Psychologists;
 - Duty root 47 - All activities - Nurse;
 - Duty root 48 - All activities - Physical therapist;
 - Duty root 49 - All activities - Behavior therapist;
 - Duty root 64 - All activities - Contractor ESA;
 - Duty root 96 - Activity 24 - Family engagement coordinator;
 - Duty roots 91 - 99 - Activity 25 - Pupil management and safety;
 - Duty roots 91 - 99 - Activity 26 - Health/related services.
- (2) S-275 data as of the published apportionment cutoff dates in January, March, and June will be considered in the calculation.
- (3) Districts must prioritize funding allocated for PSES staff to staff who hold a valid ESA certificate appropriate for that role.
- (4) Staff coded to the above duty roots and activity codes in program 21 will be multiplied by the annual percentage of students receiving special education instruction used in the determination of 3121 revenue for inclusion in the compliance calculation.

AMENDATORY SECTION (Amending WSR 22-24-029, filed 11/30/22, effective 12/31/22)

- WAC 392-122-450 Physical, social, and emotional support (PSES) compliance—Calculations.** (1) Funded staffing units will be calculated using each grade level and transition to kindergarten funding formula calculations.
- (2) Staffing units will be combined at the district level and compared to the staffing units generated using the prototypical funding model.
- (3) Penalty units are determined by subtracting the prototypical funded staff units from the district's actual funded units.
- (4) Staff in the S-275 or the supplemental tool not assigned to a valid grade grouping will be included into the high school funding formula.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

- WAC 392-122-500 K-3 class size—Apportionment of state moneys.**
- (1) State moneys for K-3 class size including transition to kindergarten program 09 as defined in Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC shall be allocated as provided in this chapter.
- (2) Elementary teacher allocations based on the prototypical schools formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for grades K-3 and transition to kindergarten program (grade T) will be based upon budgeted grades K-3 and grade T enrollment as stated in the F-203 revenue estimate from September through December for the year budgeted.

(3) School districts, charter schools, and tribal compact schools must input their estimated grades K-3 and grade T class size for purposes of funding from September through December.

(4) K-3 enrollment will not include student full-time equivalent (FTE) enrolled in alternative learning experience programs that meet the requirements of WAC 392-121-182.

(5) Funded class size starting with January apportionment will be based on the actual average annual FTE enrollment reported in the P-223.

(6) School districts, charter schools, and tribal compact schools must meet the legislative compliance requirements of K-3 class size funding in order to generate the full allotment.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-505 K-3 class size—Student enrollment. (1) Grade level K-3 and transition to kindergarten program enrollment reported on the P-223 will be considered in the compliance calculations for the months of January, March, and June.

(2) All students in alternative learning experience programs that meet the requirements of WAC 392-121-182 will be excluded from the compliance calculation.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-510 K-3 class size—Teachers. (1) The superintendent of public instruction will include in the calculation of K-3 class size compliance those teachers reported on the S-275 that are coded in programs 01 to grade group K, 1, 2, or 3, and program 09 for transition to kindergarten (grade T), and are reported in one of the following duty roots:

- Duty root 31 - Elementary homeroom teacher;
- Duty root 33 - Other teacher;
- Duty root 34 - Elementary specialist teacher;
- Duty root 52 - Substitute teacher;
- Duty root 63 - Contractor teacher.

(2) S-275 data as of the published apportionment cutoff dates in January, March, and June will be considered in the calculation.

(3) Program 21 special education teachers coded to grade K, 1, 2, or 3, and grade T multiplied by the annual percentage of students receiving special education instruction used in determination of a district's, tribal compact school's, or charter school's 3121 revenue will be included.

(4) Teachers coded to program 02 alternative learning experience will be excluded.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-515 K-3 class size compliance—Supplemental FTE teachers. (1) Supplemental teacher full-time equivalent (FTE) teachers must be reported to the superintendent of public instruction prior to the published S-275 apportionment cutoff dates in January, March, and June to be considered. Supplemental teacher FTE must be reported by individual grade level K, 1, 2, ~~((and))~~ 3, and transition to kindergarten (grade T).

(2) Supplemental FTE teacher reporting shows the net change in full-time equivalent teachers after October 1st of the school year not reflected in report S-275 under WAC 392-122-510. Supplemental full-time equivalent teachers are determined as follows:

(a) Determine the teacher FTE that would be reported for each employee for the school year on report S-275 if the current data were submitted for the October 1st snapshot as required in the S-275 instructions and subtract the teacher FTE as of October 1st actually reported for the employee on the most current report S-275.

(b) Include decreases as well as increases in staff after October 1st and not reflected in report S-275. Decreases include terminations, retirements, unpaid leave, and reassignment of staff.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-520 K-3 class size—Calculation. Funded class size will be calculated by dividing the total teachers and supplemental teacher FTE across all grades K-3 and transition to kindergarten (grade T) collectively as provided in WAC 392-122-510 into the calculated combined total enrollment in grade levels of T, K, 1, 2, or 3.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-605 Apportionment of state moneys for the state learning assistance program. (1)(a) State learning assistance program moneys shall be allocated as provided in the state Operating Appropriations Act in effect at the time the apportionment is due.

(b) The superintendent of public instruction may withhold the monthly learning assistance program apportionment payment to a school district, charter school, or tribal compact school if the school district, charter school, or tribal compact school fails to submit its annual report for the prior school year to the superintendent of public instruction by the established due date. The first learning assistance program apportionment payment of the school year and subsequent allocations may be withheld until the annual reports are completed in approvable form.

(2) Learning assistance program moneys include a district learning assistance program base allocation and a learning assistance program high-poverty based school allocation for eligible schools.

(a) A school district's funded students for the learning assistance program base allocation shall be the sum of the district's annual average full-time equivalent enrollment in grades K-12 and transition to kindergarten program for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced-price lunch in the prior school year. The prior school year's October headcount enrollment for free and reduced-price lunch shall be as reported in the comprehensive education data and research system as of March 31st of the prior school year.

(b) (i) A school is eligible for the learning assistance program high-poverty based school allocation if it is funded through the prototypical model and has at least (~~fifty~~) 50 percent of its students eligible for free and reduced-price meals in the prior school year. The percentage is determined by the school's percentage of October headcount enrollment in grades K-12 for free and reduced-price lunch as reported in the comprehensive education data and research system as of March 31st of the prior school year.

(ii) An eligible school's funded students for the learning assistance high-poverty based allocation shall be the sum of the school's annual average full-time enrollment in grades K-12 and transition to kindergarten program for the prior year.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-805 Formula for distribution of state moneys for the state highly capable students education program. A school district's or charter school's entitlement for state moneys for the state highly capable students education program shall be calculated as follows:

(1) Multiplying the reporting district's or charter school's average annual full-time equivalent students, as defined in WAC 392-121-133, excluding enrollment reported for transition to kindergarten program by the per pupil allocation established in the State Operating Appropriations Act in effect at the time the apportionment is due; and

(2) The product is the district's or charter school's entitlement subject to WAC 392-122-810 and its provision for enrollment adjustment.

AMENDATORY SECTION (Amending WSR 21-04-039, filed 1/26/21, effective 2/26/21)

WAC 392-122-810 Distribution of state moneys for the state highly capable students education program. The superintendent of public instruction shall apportion to districts and charter schools for the state highly capable student education program the amount calculated per district or charter school in WAC 392-122-805 according to the apportionment schedule provided in RCW 28A.510.250. The amount apportioned may be adjusted intermittently to reflect changes in the district's or charter school's average annual full-time equivalent students as reported on the P223, monthly report of school district en-

rollment form, excluding enrollment reported for transition to kindergarten program.

OTS-4726.2

**Chapter 392-425 WAC
TRANSITION TO KINDERGARTEN**

NEW SECTION

WAC 392-425-005 Purpose and authority. The purpose of this chapter is to provide minimum standards and requirements for transition to kindergarten programs. The chapter is intended to ensure that transition to kindergarten programs serve eligible students of all abilities who need additional preparation to be successful in kindergarten and who lack access to other early learning group settings. The rules in this chapter establish expectations and requirements for local education agencies in implementing and administering transition to kindergarten programs.

The authority for this chapter is under Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023), which requires the office of superintendent of public instruction to establish rules concerning transition to kindergarten programs.

NEW SECTION

WAC 392-425-010 Applicability. This chapter establishes the minimum administrative requirements and program standards for implementing and administering quality transition to kindergarten programs under Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and this chapter.

NEW SECTION

WAC 392-425-015 Eligibility. A transition to kindergarten program may be implemented and administered by the following local education agencies, in accordance with Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023):

(1) Common school districts;
(2) State tribal compact schools authorized under chapter 28A.715 RCW;

(3) For school years 2023-24 and 2024-25, only charter schools authorized under RCW 28A.710.080(2) may implement and administer a transition to kindergarten program.

NEW SECTION

WAC 392-425-020 Definitions. "Eligible local education agency" means a local education agency authorized to administer a transition to kindergarten program under WAC 392-425-015.

"Screening process and tool" means using one or more instruments or methods of assessing and measuring the ability and need of an individual student.

NEW SECTION

WAC 392-425-025 Notification of intent to offer a transition to kindergarten program. For the 2023-24 school year, an eligible local education agency planning to implement and administer a transition to kindergarten program during the 2023-24 school year, must notify the office of superintendent of public instruction. The notice must be provided through a process established by the office of superintendent of public instruction.

NEW SECTION

WAC 392-425-030 Local area early learning coordination. For the 2023-24 school year, an eligible local education agency administering a transition to kindergarten program must make a best effort to coordinate with local childcare and early learning providers.

NEW SECTION

WAC 392-425-035 Staff qualifications. A person serving as a teacher in a transition to kindergarten program must hold a valid teaching certificate in accordance with Title 181 WAC. Certificated educators with an early childhood education endorsement are strongly recommended. Paraeducators for transition to kindergarten programs must have met the minimum hiring requirements and must make progress on the paraeducator certificate program in accordance with Title 179 WAC.

NEW SECTION

WAC 392-425-040 Student eligibility. (1) Children meeting the following criteria are eligible to participate in a transition to kindergarten program offered by an eligible local education agency:

(a) A child who has been determined, by the local education agency, to benefit from additional preparation for kindergarten through a screening process and tool; and

(b) A child who is at least four years old by August 31st of the school year in which they enroll in a transition to kindergarten program.

(2) In determining student eligibility and admitting students to a transition to kindergarten program, local education agencies must:

(a) Give priority to children most in need of additional preparation to be successful in kindergarten, as demonstrated through a screening process and tool.

(b) Give priority to children with the lowest family income not otherwise participating in another local program.

(c) Not exclude, nor establish a policy to prohibit from participation, an eligible child due only to the presence of a disability.

(d) Not charge tuition or other fees from state-funded eligible students for enrollment in a transition to kindergarten program.

NEW SECTION

WAC 392-425-045 Minimum instructional requirements (school year, days, and hours). (1) Eligible local education agencies offering a transition to kindergarten program must offer the program during the local education agency's school year.

(a) The program may begin after the first day of the local education agency's school year.

(b) If a partial-year program is being offered, it must begin by January 31st of the school year.

(c) The program must conclude by the end of the school year.

(2) Transition to kindergarten programs must be offered as an all-day program.

Based on family choice, a child may participate in a transition to kindergarten program as a part-time student (partial day). A part-time student will be counted as a partial full-time equivalent student in accordance with WAC 392-121-122.

NEW SECTION

WAC 392-425-050 Transition to kindergarten apportionment procedures. The local education agency administering a transition to kindergarten program is subject to the apportionment procedures under chapters 392-121 and 392-122 WAC.

NEW SECTION

WAC 392-425-055 Assessment for transition to kindergarten students. For the 2023-24 school year only, the Washington kindergarten inventory of developing skills (WaKIDS) must be administered at the beginning of the program. Additionally, it is recommended that the WaKIDS whole-child assessment be administered at least one more time during the school year. A student's parent or guardian has the option to decline or excuse their student from the assessment.

WSR 24-08-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-47—Filed March 25, 2024, 4:43 p.m., effective March 26, 2024]

Effective Date of Rule: March 26, 2024.

Purpose: The purpose of this emergency rule is to close salmon seasons in Marine Area 10, except in the Agate Pass catch and release fishery and for year-round piers.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000Q; and amending WAC 220-313-060.

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

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

Reasons for this Finding: Estimates of landed catch to date indicate that anglers have reached 145 percent of the total encounters (4,953), 100 percent of sublegal encounters (4,181), and 125 percent of unmarked encounters (953) agreed to in this year's list of agreed fisheries. It is necessary to close Marine Area 10 salmon seasons due to reaching or exceeding fishery controls. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 25, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000R Puget Sound salmon—Saltwater seasons and daily limits. Effective March 26 through April 15, 2024, salmon rules for Catch Record Card Areas 10 and 11 shall be modified as described herein. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(1) Catch Record Card Area 10, except Agate Pass (waters west of a line from Point Monroe to Indianola and east of a line from Point

Bolin to Battle Point), and year-round piers (Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier):

Salmon: Closed.

(2) Catch Record Card Area 11, except year-round piers (Des Moines Pier, Les Davis Pier, and Point Defiance Boathouse Dock):

(a) Salmon: Open Wednesday through Saturday only, each week; daily limit 2 including no more than 1 hatchery Chinook. Release wild Chinook and chum. Closed Sunday through Tuesday, each week.

(b) Commencement Bay (east of a line from Cliff House Restaurant to Sperry Ocean Dock): Closed to fishing for or retention of salmon.

REPEALER

The following section of Washington Administrative Code is repealed, effective March 26, 2024:

WAC 220-313-06000Q Puget Sound salmon—Saltwater seasons and daily limits. (24-19)

WSR 24-08-031
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-48—Filed March 26, 2024, 2:46 p.m., effective April 1, 2024]

Effective Date of Rule: April 1, 2024.

Purpose: The purpose of this emergency rule is to open commercial razor clam seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-340-12000L; 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: Based on historical catches and on-site inspection, there are adequate clams to support an 11-week commercial razor clam season. Washington department of health has confirmed biotoxin levels currently fall below the regulatory threshold. This emergency rule is needed to open the commercial razor clam season in Razor Clam Area 2. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 26, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-12000L Commercial razor clams. Notwithstanding the provisions of WAC 220-340-120, effective April 1 through June 17, 2024, 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. Digging is prohibited on the west side of Leadbetter Point south of 46°40.245'N. Access to Razor Clam Area 2 is by boat only.

REPEALER

The following section of the Washington Administrative Code is repealed, effective June 18, 2024:

WAC 220-340-12000L Commercial razor clams.

WSR 24-08-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-46—Filed March 27, 2024, 9:42 a.m., effective April 4, 2024]

Effective Date of Rule: April 4, 2024.

Purpose: This emergency rule:

- (1) Sets 2024 recreational halibut seasons.
- (2) Sets annual limit of six halibut.
- (3) Allows halibut legally retained in Area 5 to be landed in Area 4 on days Area 4 is closed to halibut fishing.
- (4) Sets retention rules for lingcod, Pacific cod, and sablefish in waters seaward of 120' in Marine Areas 5 and 6 on days open for halibut.

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

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

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

Reasons for this Finding: This emergency rule revises state rules to conform to proposed federal regulations. Halibut catch will continue to be closely monitored by Washington department of fish and wildlife staff; seasons may close earlier if quotas are achieved. Halibut seasons are open only by emergency rule (see WAC 220-314-040(1)).

Additionally, this rule is necessary to allow halibut legally retained in Catch Record Card Area 5 to be landed into port within Catch Record Card Area 4 on days when halibut fishing is closed in Area 4 and set retention rules for lingcod, Pacific cod, and sable fish in waters seaward of 120' in Marine Areas 5 and 6 on days open for halibut. This will support in prosecution of an orderly fishery by avoiding unnecessary enforcement action.

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

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

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

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

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

Date Adopted: March 27, 2024.

Kelly Susewind
Director

NEW SECTION**WAC 220-314-03000S Halibut—Seasons—Daily and possession limits.**

Notwithstanding the provisions of WAC 220-314-030, and 220-314-010, effective April 4 through June 30, 2024, it is unlawful to fish for or possess halibut taken for personal use, except as provided in this section. All other provisions of WAC 220-314-030, and WAC 220-314-010, including Yelloweye Rockfish Conservation Areas (YRCA), not addressed herein, remain in effect unless otherwise amended by emergency rule:

(1) Marine Area 1 All Depth Fishery, including Southern Near Shore Fishery area described in section (2):

Open May 2, 5, 7, 9, 12, 14, 16, 19, 21, 23, 26, and 30; June 2, 4, 6, 9, 11, 13, 16, 18, 20, 23, 25, 27, and 30, 2024.

(2) Marine Area 1 Southern Near Shore Fishery; Those waters shoreward of a lined from 46°38.17'N. lat., 124°15.88'W. long., to the WA/OR border at 46°16.00'N. lat., 24°15.88'W. long. (then connecting to the 40-fathom depth contour in Oregon):

(a) Open during dates listed for Marine Area 1 All Depth Fishery in section (1), and open Mondays, Tuesdays, and Wednesdays, each week, beginning May 6, 2024, until further notice.

(b) Bottomfish, otherwise legal to retain, may be retained and landed when a vessel has landed or brought halibut into port on days when only the Southern Near Shore Fishery is open for halibut retention, but not on days when the All Depth halibut fishery is open as listed in section (1).

(3) Marine Area 2 All Depth Fishery, including Northern Near Shore Fishery area:

Open May 2, 5, 7, 9, 12, 14, 16, 19, 21, 23, 28, and 30; June 13, 16, 18, 20, 23, 25, 27, and 30, 2024.

(4) Marine Areas 3 and 4:

(a) Open May 2, 3, 4, 9, 10, 11, 16, 17, 18, 24, 26, 30, and 31; June 1, 2, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22, 23, 27, 28, 29, and 30.

(b) It is lawful to retain sablefish caught while in angling in MA 4 east of the Bonilla-Tatoosh line in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) on days open for halibut.

(5) Marine Areas 5 through 10:

(a) Open April 4 through June 30, 2024.

(b) It is lawful to retain Pacific cod in Marine Area 5 in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) on days open for halibut.

(c) It is lawful to retain Lingcod May 1 through June 15, 2024, caught while angling in Marine Area 5 in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) on days open for halibut. It is unlawful to retain lingcod in Marine Area 5 prior to May 1 and after June 15, 2024.

(d) It is lawful to retain Sablefish caught while angling in Marine Area 5 in waters seaward of the Bottomfish closure as defined in WAC 220-313-101 (2)(a) on days open for halibut. The Sablefish daily limit in Marine Area 5 is 2.

(e) It is lawful to retain Pacific cod in Marine Area 6 in waters seaward of the Bottomfish closure as defined in WAC 220-314-010 (2)(a) and waters deeper than 120 feet in the remaining portion of Marine Area 6 on days open for halibut.

(6) Marine Areas 11, 12 and 13: Closed.

(7) It is unlawful to fish for, retain, possess, or land halibut into a port located within an area that is closed to halibut fishing, except it is lawful to land halibut into a port within Marine Area 4, that were lawfully retained in Marine Area 5.

(8) Halibut caught in Canadian waters may be landed into a port located within a marine area that is closed to halibut fishing. See WAC 220-310-210 for rules on Canadian-origin halibut possession.

(9) The annual limit is six halibut taken from state or offshore waters. This does not include Canadian waters; see WAC 220-310-210 for limits on Canadian-origin halibut.

(10) A violation of this section is punishable under RCW 77.15.370 or RCW 77.15.380, depending on the violation.

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

REPEALER

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

WAC 220-314-03000R Halibut—Seasons—Daily and possession
limits. (24-29)

WSR 24-08-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-45—Filed March 28, 2024, 10:02 a.m., effective March 29, 2024]

Effective Date of Rule: March 29, 2024.

Purpose: The purpose of this emergency rule is to implement steelhead conservation measures in coastal, Grays Harbor, and Willapa Bay tributaries.

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

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

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

Reasons for this Finding: These emergency rules are necessary to protect wild steelhead stocks. Numerous coastal wild steelhead runs are expected to return below escapement targets as they have the past five seasons and have failed to meet management objectives. Forecasted 2023/2024 coastwide steelhead returns (32,596) are again expected to fall short of escapement goals for wild steelhead in many rivers. The rules contained in this filing are expected to result in a reduction of wild steelhead encounters relative to permanent rules in place and provide added protection for spawning fish and kelts.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 28, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000J Freshwater exceptions to statewide rules—Coast. Effective March 29 through April 30, 2024, the following provisions of WAC 220-312-020, regarding gamefish seasons, fishing from a floating device, and gear and hook restrictions for coastal tributaries, including tributaries of Grays Harbor and Willapa Bay shall be

modified as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(1) Bear River (Pacific Co.): Effective immediately, through March 31, 2024: All species: Closed.

(2) Bogachiel River (Clallam Co.):

(a) From the mouth to Mill Creek:

(i) Effective immediately, through March 31, 2024:

(A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(B) Steelhead: Daily limit is 2 hatchery steelhead

(ii) Effective April 1 through April 30, 2024: All species: Closed.

(b) From Mill Creek to Hwy. 101 Bridge:

(i) Effective immediately, through March 31, 2024:

(A) All species: Fishing from a floating device is prohibited.

(B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(C) Steelhead: Daily limit is 2 hatchery steelhead

(iii) Effective April 1 through April 30, 2024: All species: Closed.

(c) From Hwy. 101 Bridge to Olympic National Park Boundary:

(i) Effective immediately, through March 31, 2024:

(A) All species: Fishing from a floating device is prohibited.

(B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(C) Steelhead: Daily limit is 2 hatchery steelhead.

(ii) Effective April 1 through April 30, 2024: All species: Closed.

(3) Calawah River: (Clallam Co.):

(a) From the mouth to the Hwy. 101 Bridge:

(i) Effective immediately, through March 31, 2024:

(A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(B) Steelhead: Daily limit is 2 hatchery steelhead.

(ii) Effective April 1 through April 30, 2024: All species: Closed.

(b) From the Hwy. 101 Bridge to the forks:

(i) Effective immediately, through March 31, 2024:

(A) All species: Fishing from a floating device is prohibited.

(B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(C) Steelhead: Daily limit is 2 hatchery steelhead.

(ii) Effective April 1 through April 30, 2024: All species: Closed.

(4) Chehalis River (Grays Harbor Co.): From the mouth upstream, including all forks: Effective immediately, through April 15, 2024: All species: Closed.

(5) Clearwater River (Jefferson Co.), from the mouth to Snahapish River: Effective immediately, through April 15, 2024: All species: Closed.

(6) Dickey River (Clallam Co.), from the Olympic National Park boundary upstream:

(a) Effective immediately, through March 31, 2024:

(i) All species: Fishing from a floating device is prohibited.

(ii) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(b) Effective April 1 through April 30, 2024: All species:
Closed.

(7) Dickey River, East Fork and West Fork: Effective immediately, through March 31, 2024:

(a) All species: Fishing from a floating device is prohibited.

(b) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(8) Elk Creek (Lewis/Pacific Co.): Effective immediately, through March 31, 2024: All species: Closed.

(9) Hoh River (Jefferson Co.):

(a) From Olympic National Park boundary upstream to DNR Oxbow Campground boat launch:

(i) Effective immediately, through March 31, 2024:

(A) All species: Fishing from a floating device is prohibited Sundays through Tuesdays, each week.

(B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(C) Steelhead: Daily limit is 2 hatchery steelhead.

(ii) Effective April 1 through April 15, 2024: All species:
Closed.

(b) From DNR Oxbow Campground boat launch to Morgans Crossing boat launch:

(i) Effective immediately, through March 31, 2024:

(A) All species: Fishing from a floating device is prohibited Wednesdays through Saturdays, each week.

(B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(C) Steelhead: Daily limit is 2 hatchery steelhead.

(ii) Effective April 1 through April 15, 2024: All species:
Closed.

(c) From Morgans Crossing boat launch to Olympic National Park boundary below mouth of South Fork Hoh River:

(i) Effective immediately, through March 31, 2024:

(A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(B) Steelhead: Daily limit is 2 hatchery steelhead.

(ii) Effective April 1 through April 15, 2024: All species:
Closed.

(10) Hoh River, South Fork (Jefferson Co.), outside of Olympic National Park boundary:

(a) Effective immediately, through March 31, 2024:

(i) All species: Fishing from a floating device is prohibited.

(ii) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(b) Effective April 1 through April 15, 2024: All species:
Closed.

(11) Humptulips River (Grays Harbor Co.): From the mouth to confluence of East and West forks and West Fork from mouth to Donkey Creek: Effective immediately, through March 31, 2024: All species:
Closed.

(12) Naselle River (Pacific Co.), from the Hwy. 101 Bridge to the North Fork: Effective immediately, through April 15, 2024:

(a) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(b) Release wild rainbow trout.

(13) Newaukum River, including South Fork (Lewis Co.), from mouth to Hwy. 508 Bridge near Kearny Creek: Effective immediately, through March 31, 2024: All species: Closed.

(14) Newaukum River, Middle Fork (Lewis Co.), from mouth to Taucher Rd. Bridge: Effective immediately, through March 31, 2024: All species: Closed.

(15) Newaukum River, North (Lewis Co.), from mouth to 400' below Chehalis City water intake: Effective immediately, through March 31, 2024: All species: Closed.

(16) Quillayute River (Clallam Co.), from Olympic National Park boundary upstream to confluence of Sol Duc and Bogachiel rivers:

(a) Effective immediately, through March 31, 2024:

(i) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(ii) Steelhead: Daily limit 2 hatchery steelhead.

(b) Effective April 1 through April 30, 2024: All species: Closed.

(17) Quinault River (Grays Harbor/Jefferson Co.), from the mouth at upper end of Quinault Lake upstream to Olympic National Park boundary: immediately, through April 15, 2024: All species: Closed.

(18) Satsop River and East Fork (Grays Harbor Co.): Effective immediately, through March 31, 2024: All species: Closed.

(19) Skookumchuck River (Lewis/Thurston Co.): From mouth to 100' below outlet of TransAlta WDFW steelhead rearing pond located at the base of Skookumchuck Dam: Effective December 1, 2023, until further notice: Effective immediately, through April 30, 2024: All species: Closed.

(20) Sol Duc River (Clallam Co.):

(a) From mouth to the concrete pump station at Sol Duc Hatchery:

(i) Effective immediately, through March 31, 2024: All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(ii) Effective April 1 through April 30, 2024: All species closed.

(b) From the concrete pump station at Sol Duc Hatchery to Hwy. 101 Bridge upstream of Klahowya campground:

(i) Effective immediately, through March 31, 2024:

(A) All species: Fishing from a floating device is prohibited.

(B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(ii) Effective April 1 through April 30, 2024: All species: Closed.

(21) Thunder Creek (Clallam Co.), from mouth to D2400 Rd.:

(a) Effective immediately, through March 31, 2024:

(i) All species: Fishing from a floating device is prohibited.

(ii) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(iii) Release wild rainbow trout.

(b) Effect April 1 through April 30, 2024: All species: Closed.

(22) Willapa River (Pacific Co.), from WDFW access at mouth of Ward/Wilson Creek to Hwy. 6 Bridge (near the town of Lebam): Effective immediately, through March 31, 2024:

(a) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(b) Release wild rainbow trout.

(23) Wynoochee River (Grays Harbor Co.): From the mouth upstream: immediately, through March 31, 2024: All species: Closed.

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

REPEALER

The following sections of Washington Administrative Code are repealed, effective March 29, 2023:

WAC 220-312-02000I Freshwater exceptions to statewide
rules—Coast. (23-266)

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 24-08-051

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed March 29, 2024, 8:18 a.m., effective March 29, 2024, 8:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule establishes eligibility criteria for the civil transition program, which is a state-funded, fee-for-service program that requires the department of social and health services to provide wraparound services and supports in community-based settings, which may include residential supports, to persons who have been found not competent to stand trial due to an intellectual or developmental disability, dementia, or traumatic brain injury. This apple health program is for persons who are not eligible for any other apple health program and will provide state-funded categorically needy coverage.

Citation of Rules Affected by this Order: New WAC 182-538B-180.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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 legislature directed that the civil transition program take effect December 1, 2023. See RCW 10.77.202 (sections 13 and 31, chapter 453, Laws of 2023). The agency originally filed an emergency rule December 1, 2023, under WSR 23-24-052. Since that filing, the agency began the permanent rule-making process by filing a preproposal statement of inquiry (CR-101) on February 28, 2024, under WSR 24-06-021.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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: March 29, 2024.

Wendy Barcus
Rules Coordinator

OTS-5101.1NEW SECTION**WAC 182-538B-180 Civil transition program (CTP)—Overview. (1)**

The civil transition program (CTP) is a state-funded, fee-for-service program that requires the department of social and health services (department) to provide wraparound services and supports in community-based settings, which may include residential supports, to persons who

have been found not competent to stand trial due to an intellectual or developmental disability, dementia, or traumatic brain injury. This apple health program is for persons who are not eligible for any other apple health program.

(2) **Definitions.** The following definitions and those found in chapter 388-106 WAC apply to this section unless otherwise stated.

"**Participation**" has the same meaning given in WAC 182-513-1100.

"**Room and board**" has the same meaning given in WAC 182-513-1100.

"**Wraparound services**" means coordination of services between the individual and service providers.

(3) **General eligibility.** Effective December 1, 2023, a person is eligible for the CTP when the person:

(a) Has been referred to home and community services (HCS) or the developmental disabilities administration (DDA) from the behavioral health administration and found not competent to stand trial due to dementia, traumatic brain injury, or an intellectual or developmental disability as described in WAC 388-106-2005;

(b) Applies for apple health coverage as described in WAC 182-503-0005; and

(c) Is not eligible for other federal or state-funded medicaid coverage.

(4) HCS long-term services and supports (LTSS) for persons 18 years and older are governed by chapter 388-106 WAC when LTSS services are authorized by the department.

(5) DDA services are governed by chapter 388-825 WAC.

(6) **Client participation.**

(a) A person who is not otherwise eligible for a noninstitutional medical program must have client participation and room and board. Home and community-based services waiver eligibility and cost of care calculations are under:

(i) WAC 182-515-1508 and 182-515-1509 for HCS services; and

(ii) WAC 182-515-1513 and 182-515-1514 for DDA services.

(b) Changes in income or deductions may affect the amount a person pays toward LTSS including room and board in an alternate living facility based on chapter 182-515 WAC.

(7) **Effective dates.**

(a) Eligibility for the CTP begins on the date the person:

(i) Does not meet financial or functional eligibility for LTSS that is covered under another apple health coverage group; or

(ii) Meets the criteria described in WAC 388-106-2000 through 388-106-2040.

(b) Eligibility for the CTP ends:

(i) When the person moves out-of-state;

(ii) When the person dies;

(iii) On the date the person becomes eligible for federal or state-funded medicaid coverage;

(iv) Six months after the start date of the first CTP-eligible service or when CTP services end.

(c) CTP effective dates are subject to WAC 182-504-0120 and 388-106-2030.

(8) **Administrative hearings.** A person who disagrees with a department or agency action under this section may request an administrative hearing under chapter 182-526 WAC.

WSR 24-08-067

RESCISSION OF EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed April 1, 2024, 5:01 p.m.]

This memo serves as notice that the department of health (department) is rescinding the CR-103E for the sixth emergency rule for proprietary treatment products and the use of substitution products under WAC 246-272A-0110, which was filed February 2, 2024, and published in WSR 24-04-071.

The department is rescinding this CR-103E because the department filed a permanent rule that addresses the underlying need for the emergency rule, making the emergency rule redundant. Permanent rules were filed on March 1, 2024, under WSR 24-06-046.

Individuals requiring information on this rule should contact Peter Beaton, rules coordinator, peter.beaton@doh.wa.gov.

Tami M. Thompson
Regulatory Affairs Manager

WSR 24-08-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-49—Filed April 3, 2024, 11:29 a.m., effective April 8, 2024]

Effective Date of Rule: April 8, 2024.

Purpose: This emergency rule is needed to open recreational razor clam seasons.

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

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

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

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

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

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

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

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

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

Date Adopted: April 3, 2024.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 a.m. April 8 through 11:59 a.m. April 12, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

Razor Clam Area	Date	Time
Area 1	April 9 through 12	From 12:01 a.m. to 11:59 a.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	April 10 through 12	From 12:01 a.m. to 11:59 a.m.
Area 4	April 10 and 11	From 12:01 a.m. to 11:59 a.m.
Area 5	April 8, 9, and 12	From 12:01 a.m. to 11:59 a.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

(2) Effective 12:01 a.m. April 13 through 12:59 p.m. April 14, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

Razor Clam Area	Date	Time
Area 1	April 13 and 14	From 12:01 a.m. to 12:59 p.m.
Area 2	Closed	Closed
Area 3	April 13	From 12:01 a.m. to 12:59 p.m.
Area 4	April 14	From 12:01 a.m. to 12:59 p.m.
Area 5	April 13	From 12:01 a.m. to 12:59 p.m.
Area 6	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 15, 2024:

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