

WSR 20-07-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-42—Filed March 5, 2020, 10:08 a.m., effective March 5, 2020, 10:08 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia River while protecting salmon listed as threatened or endangered under the Endangered Species Act (ESA). This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Rules Affected by this Order: Repealing WAC 220-359-02000W, 220-359-02000X and 220-359-06000A; and amending WAC 220-359-020 and 220-359-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.130, 77.12.045, and 77.12.047.

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

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

Reasons for this Finding: As a precautionary measure in anticipation of meeting the treaty harvest guideline for sturgeon in Bonneville Pool this rule closes treaty commercial fisheries for sale of all fish in SMCRA 1F, 1G, and 1H at 6PM on Thursday, March 5, 2020. This rule is consistent with actions of Columbia River Compacts on January 28, February 19 and 26, and March 4, 2020. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

The Yakama, Warm Springs, Umatilla, and Nez Perce Indian tribes have treaty fishing rights in the Columbia River and inherent sovereign authority to regulate their fisheries. Washington and Oregon also have some authority to regulate fishing by treaty Indians in the Columbia River, authority that the states exercise jointly under the congressionally ratified Columbia River Compact. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). The tribes and the states adopt parallel regulations for treaty Indian fisheries under the supervision of the federal courts. A court order sets the current parameters. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2018-2027 *United States v. Oregon* Management Agreement (February 26, 2018) (Doc. No. 2607-1). Some salmon and steelhead stocks in the Columbia River are listed as threatened or endangered under the federal ESA. On February 23, 2018, the National Marine Fisheries Service issued a biological opinion under 16 U.S.C. § 1536 that allows for some incidental take of these species in the fisher-

ies as described in the 2018-2027 *U.S. v. Oregon* Management Agreement.

Columbia River fisheries are monitored very closely to ensure consistency with court orders and ESA guidelines. Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule. As required by court order, the Washington (WDFW) and Oregon (ODFW) departments of fish and wildlife convene public hearings and invite tribal participation when considering proposals for new emergency rules affecting treaty fishing rights. *Sohappy*, 302 F. Supp. at 912. WDFW and ODFW then adopt regulations reflecting agreements reached.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 3.

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

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

Date Adopted: March 5, 2020.

Nate Pamplin
for Kelly Susewind
Director

NEW SECTION

WAC 220-359-02000X Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-359-010, WAC 220-359-020, WAC 220-359-030, and WAC 220-359-090:

- 1) Open Areas: SMCRA 1F (Bonneville Pool)
 - (a) Season: Immediately to 6 PM Thursday, March 5, 2020
 - (b) Gear: Gillnets with no minimum mesh size restriction.
 - (c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 38 to 54 inches fork length may be sold or kept for subsistence purposes.
 - (d) Standard river mouth and dam sanctuary closures remain in place for this gear.
- 2) Open Areas: SMCRA 1F, 1G, 1H (Zone 6)
 - (a) Season: Immediately through 6 PM Thursday, March 5, 2020.
 - (b) Gear: Hoop nets/bag nets, dip nets, and rod and reel with hook and line.
 - (c) Allowable sale: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be sold or retained for subsistence. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from

43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes. Sturgeon within the legal-size limit and caught in the platform and hook and line fishery may only be sold if caught during the open period and open pool of an open gillnet fishery.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

3) 24-hour quick reporting is required for Washington wholesale dealers for all areas as provided in WAC 220-352-315, except that all landings from treaty fisheries described above must be reported within 24-hours of completing the fish ticket (not 24-hours after the period concludes).

4) Fish caught during the open period may be sold after the period concludes.

NEW SECTION

WAC 220-359-06000A Columbia River above Bonneville Dam—Off-reservation Indian subsistence fishing. Notwithstanding the provisions of WAC 220-359-010 and WAC 220-359-060:

Open Areas: SMCRA 1F, 1G, 1H (Zone 6):

(a) Season: 6PM Thursday March 5 through 6 PM Saturday, March 21, 2020.

(b) Gear: Hoop nets/bag nets, dip nets, and rod and reel with hook and line.

(c) Allowable Harvest: Salmon (any species), steelhead, shad, yellow perch, bass, walleye, catfish, and carp may be retained for subsistence purposes only. Sturgeon from 38 to 54 inches fork length in the Bonneville Pool and sturgeon from 43 to 54 inches fork length in The Dalles and John Day Pools may be kept for subsistence purposes only.

(d) Standard river mouth and dam sanctuary closures remain in place for this gear.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-359-02000W Columbia River salmon seasons above Bonneville Dam—Commercial seasons. (20-38)

The following section of the Washington Administrative Code is repealed, effective 6 PM March 5, 2020:

WAC 220-359-02000X Columbia River salmon seasons above Bonneville Dam—Commercial seasons. (20-42)

The following section of the Washington Administrative Code is repealed, effective 6 PM March 21, 2020:

WAC 220-359-06000A Columbia River salmon seasons above Bonneville Dam—Off-reservation Indian subsistence fishing.

**WSR 20-07-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 20-43—Filed March 9, 2020, 4:30 p.m., effective March 9, 2020, 7:00 p.m.]

Effective Date of Rule: March 9, 2020, 7:00 p.m.

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

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

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

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

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

Reasons for this Finding: Modifies the 2020 winter select area commercial seasons and extends the summer seasons. Impacts to nonlocal stocks are expected to be minimal and local Chinook stocks reared for the select area sites are available for harvest. The fishery is consistent with the *U.S. v. Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. Regulation is consistent with compact action of February 11, and March 4, 2020. There is insufficient time to promulgate permanent rules.

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

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

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

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

Recently Enacted State Statutes: New 1, Amended 0, Repealed 1.

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

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

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

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

Date Adopted: March 9, 2020.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-358-03000L Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-358-030, WAC 220-358-040, and WAC 220-335-050, it is unlawful for a person to take or possess salmon, sturgeon, and shad for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, 1E and Select Areas, except during the times and conditions listed below:

- (1) **Tongue Point and South Channel Select Areas:**
- (a) **Tongue Point and South Channel Select Areas**

Open Dates	Open Days	Open Time	Open Duration
March 6-March 7	Thursday (night)	7:00pm-7:00am	12 hrs
April 20	Monday (night)	6:00pm-10:00pm	4 hrs
April 23	Thursday (night)	7:00pm-7:00am	4 hrs
April 28-May 1	Tuesday, Thursday (nights)	7:00pm-7:00am	2 nights
May 4-June 12	Monday, Wednesday, Thursday (nights)	7:00pm-7:00am	18 nights
June 16-June 19	Tuesday, Thursday (nights)	7:00pm-7:00am	2 nights
June 22-July 3	Monday, Thursday (nights)	7:00pm-7:00am	4 nights

(b) Tongue Point Select Area

Open Dates	Open Days	Open Time	Open Duration
March 9-March 10	Monday (night)	7:00pm-7:00am	12 hrs
March 12-March 13	Thursday (night)	7:00pm-7:00am	12 hrs
March 17	Tuesday (morning)	1:00am-5:00am	4 hrs

(c) South Channel Select Area

Open Dates	Open Days	Open Time	Open Duration
March 9 - March 13	Monday, Thursday (nights)	7:00pm-7:00am	2 nights
March 16 - March 20	Monday, Wednesday, Thursday (nights)	7:00pm-7:00am	3 nights
March 23 - March 27	Monday, Thursday (nights)	7:00pm-7:00am	2 nights
March 31	Tuesday (morning)	12:00am-4:00am	4 hrs
April 3	Friday (morning)	3:30am-7:30am	4 hrs
April 6	Monday (night)	7:00pm-11:00pm	4 hrs

Open Dates	Open Days	Open Time	Open Duration
April 9-April 10	Thursday-Friday (night)	10:00pm-2:00am	4 hrs
April 14	Tuesday (morning)	12:30am-4:30am	4 hrs
April 17	Friday (morning)	4:30am-8:30am	4 hrs

(d) Area: The Tongue Point Winter-Spring subarea, (Winter-Spring is immediately through June 12, 2020), is defined as waters of the Columbia River bounded by a line from the end of the southern-most pier (#1) at the Tongue Point Job Corps facility projecting in a straight line through flashing red USCG light "6" to the shore of Mott Island, a line from a regulatory marker at the southeast end of Mott Island northeasterly to a regulatory marker on the northwest shore of Lois Island, and a line from a regulatory marker located on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River projecting easterly to a regulatory marker on the southwest shore of Lois Island. If the marker on the Oregon shore is not in place, the upper boundary is defined by a line projecting easterly from a point (46°10'57.7"N latitude 123°44'35.3"W longitude) on the Oregon shore approximately 300 yards northwest of the railroad bridge crossing the John Day River to a regulatory marker on the southwest shore of Lois Island.

For summer fisheries, (defined as June 16 through July 3, 2020), the open waters include the entire Tongue Point Select Area as described in WAC 20-301-010 (11)(c). If the marker on the eastern shore of Tongue Point is not in place, the downstream boundary is defined by a line projecting from a point (46°12'31.1"N latitude 123°45'34.0"W longitude) on the eastern shore of Tongue Point to the flashing green USCG light "3" on the rock jetty at the northwest tip of Mott Island.

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

(e) Gear: Gillnets.

Winter season (immediately through April 14, 2020): 7-inch minimum mesh size restriction

Spring and Summer seasons (April 17 through July 3, 2020): 9 3/4-inch maximum mesh size restriction.

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

In the Tongue Point winter-spring subarea and the Tongue Point Select Area, the lead line weight may not exceed two pounds per any one fathom;

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

(2) Blind Slough and Knappa Slough Select Areas:

(a) Blind Slough and Knappa Slough Select Areas

Open Dates	Open Days	Open Time	Open Duration
Immediately-March 24	Monday, Wednesday, Thursday (nights)	7:00pm-7:00 am	16 nights
March 26-April 17	Monday, Thursday (nights)	7:00pm-7:00 am	12 hrs
April 20-April 20	Monday, Thursday (nights)	7:00pm-7:00 am	2 nights
April 28-May 1	Tuesday, Thursday (nights)	7:00pm-7:00 am	2 nights
May 4-June 12	Monday, Wednesday, Thursday (nights)	7:00pm-7:00 am	18 nights
June 16-June 19	Tuesday, Thursday (nights)	7:00pm-7:00 am	2 nights
June 22-July 3	Monday, Thursday (nights)	7:00pm-7:00 am	4 nights

(b) Blind Slough Select Area

Open Dates	Open Days	Open Time	Open Duration
March 26-March 27	Thursday-Friday (night)	9:30pm-1:30 am	4 hrs

(c) Knappa Slough Select Area

Open Dates	Open Days	Open Time	Open Duration
March 26-March 27	Thursday-Friday (night)	9:30pm-1:30 am	4 hrs
March 31	Tuesday (morning)	12:00am-4:00 am	4 hrs
April 3	Friday (morning)	3:30am-7:30 am	4 hrs
April 6	Monday (night)	7:00pm-11:00 pm	4 hrs

Open Dates	Open Days	Open Time	Open Duration
April 9-April 10	Thursday-Friday (night)	10:00pm-2:00 am	4 hrs
April 14	Tuesday (night)	12:30am-4:30 am	4 hrs
April 17	Friday (morning)	4:30am-8:30 am	4 hrs

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

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

The waters of Knappa Slough within a 100-foot radius of the railroad bridge crossing Big Creek are closed. Prior to May 2, the downstream (western) boundary in Knappa Slough is a north-south line projecting through the easternmost tip of Minaker Island and regulatory markers on Karlson Island and the Oregon shore.

(e) Gear: Gillnets.

Winter season (immediately through April 14, 2020): 7-inch minimum mesh size restriction.

Spring and Summer seasons (April 16 through July 3, 2020): 9¾-inch maximum mesh size restriction.

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

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

(f) Miscellaneous: Permanent transportation rules in effect. In accordance with WACs 220-69-230(1)(i) and 220-22-010(9)(a-b), commercial fishers are expected, and fish dealers are required, to report landings for winter-summer fisheries in Knappa Slough and Blind Slough separately using appropriate zone codes. Fish dealers are requested to keep landings from these two sites separate to aid in sampling.

(3) Allowable Sales: Salmon (except Chum), white sturgeon, and shad. A maximum of three white sturgeon with a fork length of 44-50 inches may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The white sturgeon possession and sales limit includes all Select Area fisheries.

(4) 24-hour quick reporting is in effect for Washington buyers (WAC 220-352-315)). Permanent transportation rules in effect. Oregon buyers are required to submit fish receiving tickets electronically pursuant to OAR 635-006-0210. Unique catch reporting codes have been established for Blind Slough and Knappa Slough to facilitate separation of landings and sampling for winter/spring fisheries. Blind Slough and Knappa Slough have unique catch reporting codes to facilitate separation of landings and sampling for winter/spring fisheries.

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 p.m. March 9, 2020:

WAC 220-358-03000K Columbia river seasons below Bonneville Dam. (20-27)

**WSR 20-07-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 20-45—Filed March 9, 2020, 4:36 p.m., effective March 10, 2020, 11:59 p.m.]

Effective Date of Rule: March 10, 2020, 11:59 p.m.

Purpose: Amends recreational fishing rules for the Columbia River.

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

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

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

Reasons for this Finding: This rule is needed to close white sturgeon retention in John Day Pool. Unexpectedly high catch rates over the past weekend have caused us to surpass the harvest guideline and risks overharvesting the population. Twenty-four hours' notice is needed to inform anglers of the closure. This action is consistent with decisions made by the states of Washington and Oregon on March 9, 2020.

This rule also carries forward existing emergency rules previously placed on the Columbia River. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 9, 2020.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-060001 Freshwater exceptions to statewide rules—Columbia Notwithstanding the provisions of WAC 220-312-060:

(1) From a true north-south line through Buoy 10, upstream to a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line): Salmon and steelhead: Effective immediately until further notice: Closed.

(2) From a line from the Warrior Rock lighthouse on the Oregon shore to red USCG buoy #4, then to the piling dolphin on the lower end of Bachelor Island (Warrior Rock line) to A deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock:

a. Salmon and steelhead:

i. Effective immediately through March 31, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

ii. Effective April 1 until further notice:

A. Open Thursday through Saturday each week: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

B. Closed Sunday through Wednesday each week.

b. Shad: Effective April 1, 2020 until further notice:

i. No minimum size. No daily limit.

ii. Open days when salmon and steelhead are open.

(3) From a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock to Bonneville Dam:

a. Effective immediately until further notice: Closed to angling from a floating device or by any method except hand-cast lines from shore.

b. Salmon and steelhead:

i. Effective immediately through March 31, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

ii. Effective April 2 until further notice:

A. Open Thursday through Saturday each week: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

B. Closed Sunday through Wednesday each week.

c. Shad: Effective April 1, 2020 until further notice:

i. No minimum size. No daily limit.

ii. Open days when salmon and steelhead are open.

(4) From Bonneville Dam to John Day Dam:

a. Salmon and steelhead: Effective April 1 through May 5, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

b. Sturgeon: Effective immediately through April 30, 2020: Retention is prohibited.

(5) Adjacent tributaries From Bonneville Dam to McNary Dam: Sturgeon: Effective immediately through April 30, 2020: Retention is prohibited.

(6) From John Day Dam to McNary Dam:

a. Salmon and steelhead: Effective April 1 through May 5, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

b. Sturgeon: Effective 11:59 PM March 10 through April 30, 2020: Retention is prohibited.

(7) From McNary Dam upstream to Hwy. 730 at the Washington/Oregon border:

a. Steelhead: Effective immediately through March 31, 2020: Closed to angling for and retention of steelhead.

b. Salmon and steelhead: Effective April 1 through May 5, 2020: Daily limit is 6, no more than 2 adults may be retained of which no more than 1 may be an adult Chinook. Release all wild Chinook and wild coho.

(8) From the Washington/Oregon border to the Hwy. 395 Bridge (Pasco/Kennewick): Steelhead: Effective immediately through March 31, 2020: Closed to angling for and retention of steelhead.

(9) From the Hwy. 395 Bridge (Pasco/Kennewick) to Old Hanford townsite powerline crossing: Steelhead: Effective immediately through April 15, 2020: Closed to angling for and retention of steelhead.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective March 11, 2020:

WAC 220-312-06000H Freshwater exceptions to statewide rules—Columbia (20-36)

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 12, Repealed 0.
Date Adopted: March 9, 2020.

Dan Zeitlin
Policy Director

WSR 20-07-039

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed March 9, 2020, 4:54 p.m., effective March 9, 2020, 4:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The rule making is proposed in order to provide support to employees and employers impacted by the COVID-19 virus across the state. These emergency rules relate to leaving work because of illness or disability (WAC 192-150-055); report and tax payment penalties and charges (WAC 192-310-030); backdating applications for unemployment benefits (WAC 192-110-095); scheduling and reporting for reemployment services (WAC 192-140-090); registering for work (WAC 192-180-005); job search reviews (WAC 192-180-025); job search directives (WAC 192-180-040); good cause for failing to respond (WAC 192-320-082); applications for standby (WAC 192-110-015); time frames for training benefits (WAC 192-270-035); certification of progress for training benefits (WAC 192-270-065); suitable work factors (WAC 192-170-050); isolation and quarantine (WAC 192-100-901); and catastrophic occurrences (WAC 192-320-078).

Citation of Rules Affected by this Order: New WAC 192-100-901 and 192-320-078; and amending WAC 192-150-055, 192-310-030, 192-110-095, 192-110-015, 192-140-090, 192-180-005, 192-180-025, 192-180-040, 192-320-082, 192-270-035, 192-270-065, and 192-170-050.

Statutory Authority for Adoption: RCW 50.12.040.

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

Reasons for this Finding: In Proclamation 20-05, Governor Inslee proclaimed a state of emergency in Washington regarding COVID-19. The proclamation directs agencies and departments to support the department of health and local officials in alleviating the impacts to people, property, and infrastructure across the state.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 12, 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 SECTION

WAC 192-100-901 Isolation and quarantine. (1) "Isolation" means the same as the definition in WAC 246-100-011.

(2) "Quarantine" means the same as the definition in WAC 246-100-011.

AMENDATORY SECTION (Amending WSR 20-03-073, filed 1/10/20, effective 2/10/20)

WAC 192-110-015 Applications by standby workers—RCW 50.20.010. (1) **What is "standby?"**

(a) "Standby" means you are temporarily unemployed because of a lack of work but:

- (i) You expect to return to work with your regular employer within four weeks; or
- (ii) You expect to begin full-time work with a new employer within two weeks; or
- (iii) You are temporarily unemployed due to natural disaster.

(b) (~~You do not have to register for work or look for other work while you are on standby.~~) The requirement to register for work and search for work is fulfilled so long as you are on standby and take reasonable measures to maintain contact with the employer.

(c) You must be available for all hours of suitable work offered by your regular employer.

(2) How long can I be on standby?

- (a) You can ask to be on standby for up to four weeks.
- (b) We will ask your employer to verify that you are on standby, including your expected return to work date:
 - (i) If your employer does not reply, you can be on standby for up to four weeks;
 - (ii) If your employer confirms you are on standby, you can be on standby until the return to work date given by your employer, subject to the limitations of (c) of this subsection;
 - (iii) If your employer replies that you are not on standby or do not have a return to work date within eight weeks, we will require you to immediately register for work and to look for work.

(c) Your regular employer may ask that you be placed on standby for a maximum of eight weeks (except as provided in (2)(d) below). This request must be approved by the department. We will consider the following before deciding whether to approve standby for more than four weeks:

- (i) How long you have been out of work;
- (ii) Whether other suitable work is available;
- (iii) The impact on you and your employer if you accept other work; and
- (iv) Other factors that apply to your situation.

(d) At his or her discretion, the commissioner may grant standby for more than eight weeks in a benefit year. Exceptions can be made due to natural disaster. Exceptions can also

be made in other extraordinary circumstances when the employer applies in writing and shows there are conditions that apply to the business that are so unique or unusual compared to similar businesses that having their employees on standby for more than eight weeks is necessary. Exceptions can also be made due to a COVID-19 infection at the employer's place of business that causes the employer to close or severely curtail operations.

(e) We can approve standby if you have obtained a definite offer of bona fide full-time work that has a probable start date within two weeks, which includes the week of the job offer and up to two additional weeks. The job, however, must be:

(i) With a new employer or with a former employer to whom you are no longer attached as provided in subsection (3)(f) of this section; and

(ii) Covered by Title 50 RCW or the comparable laws of another state or the federal government.

(3) Are there conditions that apply to a request for standby?

(a) You must have a probable date when you will return to work for your regular employer;

(b) We will not approve standby if you only have prospects of future work with your regular employer or a promise of more work at some unspecified date;

(c) We will not approve standby with your regular employer unless the employment is covered by Title 50 RCW or the comparable laws of another state or the federal government;

(d) Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work less than full-time. For purposes of this section, "full-time" means forty hours each week or the number of hours that are full-time for your occupation and labor market area. This subsection does not apply if either (i) you are unemployed due to a COVID-19 infection at your employer's place of business that caused your employer to close or severely curtail operations; or (ii) you are unemployed because you or your immediate family member received a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you or your immediate family member have not been actually diagnosed with COVID-19;

(e) Any week(s) that you do not qualify for benefits will not be considered as part of the maximum eight weeks of standby; and

(f) After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer. You must meet the job search requirements specified by RCW 50.20.010 (1)(c) and 50.20.240.

(4) When does standby begin?

(a) Standby begins the day of your request unless your request is backdated pursuant to (b) of this subsection.

(b)(i) You may backdate your request for standby up to one week for any reason.

(ii) Your request for standby may also be backdated for the convenience of the department. "For the convenience of the department" means for the purpose of program administration; or those situations where it is difficult or impossible

to accept a timely request including, but not limited to, equipment breakdowns, lack of available staff, or special handling requirements.

AMENDATORY SECTION (Amending WSR 16-21-013, filed 10/7/16, effective 11/14/16)

WAC 192-110-095 May I backdate my application for unemployment benefits (RCW 50.04.030)? (1) General rule. A benefit year begins on Sunday of the calendar week in which you file your application for benefits. However, an application may also be backdated for good cause or for the convenience of the department.

(2) **Definitions.** As used in this section:

(a) "Good cause" means factors that would prevent a reasonably prudent person in similar circumstances from filing an application for benefits. These include, but are not limited to, incapacity due to illness or injury, or other serious factors. "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you have not been actually diagnosed with COVID-19.

(b) "For the convenience of the department" means:

(i) For the purpose of program administration; or

(ii) Those situations where it is difficult or impossible for the department to accept a timely application. These include, but are not limited to, equipment breakdowns, lack of available staff to accept applications, or special handling requirements.

(3) **Limitations on good cause.**

(a) You must file your application for benefits during the first week in which those factors that constitute good cause are no longer present. The effective date will be Sunday of such week.

(b) Backdating will not be allowed if you claim good cause based on information from department staff or agents where you could reasonably be expected to question the accuracy of this information.

AMENDATORY SECTION (Amending WSR 19-12-091, filed 6/4/19, effective 7/22/19)

WAC 192-140-090 What happens if I do not schedule or report for reemployment services as provided in RCW 50.20.010 (1)(e)? (1) Written directives.

(a) The commissioner may direct you in writing to schedule a time to report in person for reemployment services. The written directive will contain a deadline by which you must schedule and participate in reemployment services.

(b) If you fail to schedule a time to participate in reemployment services by the deadline, you will be ineligible to receive benefits for the week containing the date of the deadline, unless you show justifiable cause.

(c) If you fail to participate in reemployment services at the time you scheduled, you will be ineligible to receive benefits for the week containing the time you scheduled, unless you show justifiable cause.

(d) The department may verify the reasons you failed to schedule or participate in reemployment services. In all such cases, your ability to work or availability for work may be questioned.

(2) **Exceptions.** You will not be required to participate in reemployment services if you:

(a) Are a member of a full referral union and are eligible for dispatch and referral according to union rules;

(b) Are attached to an employer as provided in WAC 192-180-005;

(c) Are participating in a training program approved by the commissioner; or

(d) Within the previous year have completed, or are currently scheduled for or participating in, similar services.

(3) **Minimum services.** The services will consist of one or more sessions which include, but are not limited to:

(a) Local labor market information;

(b) Available reemployment and training services;

(c) Successful job search attitudes;

(d) Self-assessment of job skills and interests;

(e) Job interview techniques;

(f) The development of a resume or fact sheet; and

(g) The development of a plan for reemployment.

(4) **Justifiable cause.** Justifiable cause for failure to schedule or participate in reemployment services as directed will include factors specific to you which would cause a reasonably prudent person in similar circumstances to fail to schedule or participate in reemployment services. Justifiable cause includes, but is not limited to:

(a) Your illness or disability or that of a member of your immediate family. "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you or your immediate family member have not been actually diagnosed with COVID-19;

(b) Conflicting employment or your presence at a job interview scheduled with an employer; or

(c) Severe weather conditions.

AMENDATORY SECTION (Amending WSR 10-01-156, filed 12/22/09, effective 1/22/10)

WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

(a) You left work primarily because of such illness, disability, or death; and

(b) The illness, disability, or death made it necessary for you to leave work; and

(c) You first exhausted all reasonable alternatives prior to leaving work, including:

(i) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; and

(ii) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(2) For claims with an effective date of January 4, 2004, or later, you are not eligible for unemployment benefits unless, in addition to the requirements of subsections (1)(a)-

(c) above, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(3) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by subsection (1)(c) if you can show that doing so would have been a futile act.

(4) **Definitions.** For purposes of this chapter:

(a) "Disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job;

(b) "Immediate family" means your spouse, domestic partner, and the children (including unborn children), siblings, step-children, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household;

(c) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work;

(d) "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you have not been actually diagnosed with COVID-19.

AMENDATORY SECTION (Amending WSR 02-08-072, filed 4/2/02, effective 5/3/02)

WAC 192-170-050 Suitable work factors—RCW 50.20.100 and 50.20.110. (1) **Physical fitness.** In determining whether work is suitable as defined by RCW 50.20.100 and 50.20.110, the department will consider whether you have a disability that prevents you from performing the essential functions of the job without a substantial risk to your health or safety.

(a) For purposes of this section, the term "disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job.

(b) The department may determine in individual circumstances that less than full-time work is suitable if:

(i) The disability prevents you from working the number of hours that are customary to the occupation;

(ii) You are actively seeking work for the occupation and hours you have the ability to perform; and

(iii) The restriction on the number of hours you can work, the essential functions you can perform, and the occupations you are seeking does not substantially limit your employment prospects within your general area.

(c) To be considered available for suitable work, you must be available for employment in an occupation in keeping with your prior work experience, education, or training. If such employment is not available in your general area, you must be willing to accept any employment which you have the physical or mental ability to perform.

(d) Disabilities resulting from pregnancy will be treated the same as other disabilities, except that the department will also consider the risk to your pregnancy when deciding whether work is suitable.

(e) The department will require verification from a physician of your disability, including:

(i) The restrictions on the tasks or work-related functions you can perform;

(ii) The restrictions on the number of hours you can work, if any;

(iii) The expected duration of the disability and resulting work restrictions; and

(iv) The types of tasks or work-related functions you are able to perform with this disability, if known by the physician.

(f) For purposes of this section, "disability" also includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you have not been actually diagnosed with COVID-19.

(2) **Definitions.** For the purposes of this chapter:

(a) "General area" means an individual's labor market area and includes the geographic area within which an individual would customarily seek work in a given occupation.

(b) "Physician" means a person licensed to practice one or more of the following professions: Medicine and surgery (including, but not limited to, psychiatry); osteopathic medicine and surgery; chiropractic; naturopathic medicine; podiatry.

AMENDATORY SECTION (Amending WSR 17-01-051, filed 12/13/16, effective 1/13/17)

WAC 192-180-005 Registration for work—RCW 50.20.010(1) and 50.20.230. (1) **Am I required to register for work?** You must register for work unless you are:

(a) Attached to an employer, meaning you are:

(i) Partially unemployed as defined in WAC 192-180-013(1);

(ii) On standby as defined by WAC 192-110-015;

(iii) Unemployed because you are on strike or locked out from the worksite as provided in RCW 50.20.090; or

(iv) Participating in the shared work program under chapter 50.60 RCW;

(b) A member of a union that participates in the referral union program (see WAC 192-210-110);

(c) Participating in a training program approved by the commissioner; ((or))

(d) The subject of an antiharassment order. This includes any court-issued order providing for your protection, such as restraining orders, no contact orders, domestic violence protective orders, and similar documents; or

(e) Under isolation or quarantine at the request of a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19.

(2) **How soon do I have to register?**

(a) If you live within the state of Washington, the department will register you automatically based on information contained in your application for benefits. In unusual circum-

stances where you are not automatically registered, you must register within one week of the date on which you are notified by the department of the requirement to register for work.

(b) If you live in another state, you must register for work within one week of the date your first payment is issued on your new or reopened claim.

(c) If you have been requested by a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19 and were not automatically registered, you must register for work within one week of the date you are no longer requested to be isolated or quarantined.

(3) **Where do I register for work?** You will be registered for work with the department. However, if you live in another state, you must register for work with the equivalent public employment agency in that state.

(4) **What is the penalty if I do not register for work?** You will not be eligible for benefits for any week in which you are not registered for work as required by this section.

AMENDATORY SECTION (Amending WSR 17-01-051, filed 12/13/16, effective 1/13/17)

WAC 192-180-025 Job search reviews. (1) **What is a job search review (JSR)?** The JSR is a review of your job search activities by the department. At a minimum, the department will review your job search documentation, your ability to work, availability for work, and your efforts to find work. The department may also promote an active search for work by directing you to resources that will assist you with your job search efforts.

(2) **Will my job search activities be reviewed?** Yes, you must provide your job search log to the department when requested. The department will review your log, review your eligibility for benefits as required by RCW 50.20.010 (1)(c), and, when appropriate, provide feedback on areas in which your job search can be improved.

(3) **How many weeks will be reviewed?** The department will review at least one week of your job search documentation at the initial JSR.

(a) If the documentation shows you met the job search requirements for that week, no further action will be taken at that time except as provided in WAC 192-180-020(2). You may be scheduled for another JSR at a later date.

(b) If the documentation shows that you substantially complied with the job search requirements, you will not be scheduled for an all weeks JSR. However, your benefits may be denied for that week and the department will issue you a work search directive explaining how your job search efforts or documentation of those efforts must be modified.

(c) If the job search documentation fails to show that you substantially complied with the job search requirements, the department will reschedule you for a second JSR in which your job search for all weeks claimed will be reviewed.

(4) **What happens if I do not participate in the initial JSR?** If you fail to participate in the initial JSR, the department will determine if your failure is excused or unexcused.

(a) If you have an excused absence, the department will reschedule you for a JSR of one week of your job search documentation.

You may be excused from participating in the initial JSR only for good cause:

(i) Your illness or disability or that of a member of your immediate family that prevents you from participating. "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you or your immediate family member have not been actually diagnosed with COVID-19;

(ii) Your employment or presence at a job interview scheduled with an employer;

(iii) Natural disaster or similar acts of nature; or

(iv) Factors specific to your situation which would prevent a reasonably prudent person in similar circumstances from participating.

(b) If you have an unexcused absence, the department will:

(i) Schedule you for a JSR of your job search activities for all weeks claimed; and

(ii) Deny your benefits for the week of the initial JSR unless you can show good cause for not participating. (See WAC 192-180-030.)

(5) **What does "all weeks" mean?** For purposes of this section, "all weeks" means the latest of the following:

(a) Weeks claimed since you filed your application for benefits; or

(b) Weeks claimed since your last all weeks JSR.

(6) **Will the department verify my identity at the JSR interview?** Yes, you must be prepared to provide the department with sufficient information to verify your identity.

AMENDATORY SECTION (Amending WSR 05-01-076, filed 12/9/04, effective 1/9/05)

WAC 192-180-040 Directive to attend job search workshop or training course—RCW 50.20.044. (1) The department may direct you, in writing, to attend a job search workshop or training course when it finds that your chances of finding employment will be improved by enrollment in such activity.

(2) You will not be directed to attend a job search workshop or training course if:

(a) You have an offer of bona fide work that begins within two weeks; or

(b) The workshop or training location is outside your labor market or would require you to travel further than the nearest WorkSource office or local employment center; or

(c) You are a member in good standing of a full referral union, unless you are also being required to begin an independent search for work or have been identified as a dislocated worker as defined in RCW 50.04.075.

(3) If you receive a directive and fail without good cause to attend a substantial portion of the workshop or training course during a week, you will be ineligible for benefits for the entire week. Good cause includes your illness or disability or that of a member of your immediate family, or your presence at a job interview scheduled with an employer. "Illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you or

your immediate family member have not been actually diagnosed with COVID-19. Reasons for absence may be verified and may result in a denial of benefits under RCW 50.20.010.

(4) Participation in a job search workshop when directed meets the definition of an "in-person job search activity" as defined in WAC 192-180-010.

(5) When attending a job search workshop or training course as directed, you will not be ineligible for benefits for failure to be available for work or to actively seek work under the provisions of:

(a) RCW 50.20.010 (1)(c);

(b) RCW 50.20.240; or

(c) RCW 50.22.020(1).

AMENDATORY SECTION (Amending WSR 16-21-013, filed 10/7/16, effective 11/14/16)

WAC 192-270-035 Time frames. (1) Information about training benefits will be included in the informational notice sent to you at the time you file your application for unemployment benefits (see WAC 192-120-010). For purposes of subsections (2) and (3) of this section, the informational notice is considered your notification of the eligibility requirements for the training benefits program.

(2) Submitting a training plan.

Except for dislocated workers eligible under RCW 50.22.155 (2)(a)(i), you have ninety calendar days to submit a training plan to the department for approval, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be ninety-five calendar days from the date your application for benefits is filed, which represents ninety days plus five days for the informational notice to reach you if sent by regular mail.

(3) Enrollment in training.

Except for dislocated workers eligible under RCW 50.22.155 (2)(a)(i), you must be enrolled in training within one hundred twenty calendar days, beginning on the date you are notified about the eligibility requirements for training benefits. For new claims, the deadline will be one hundred twenty-five calendar days from the date your application for benefits is filed, which represents one hundred twenty days plus five days for the informational notice to reach you if sent by regular mail.

(4) If you are a dislocated worker eligible under RCW 50.22.155 (2)(a)(i), you must submit a training plan and enroll in training prior to the end of your benefit year.

(5) Except for dislocated workers eligible under RCW 50.22.155 (2)(a)(i), these time frames may be waived for good cause. For purposes of this section, "good cause" includes but is not limited to situations where:

(a) You were employer attached, including being on standby or partially unemployed, when you filed your claim for unemployment benefits but your attachment to your employer subsequently ended;

(b) You acted or failed to act on authoritative advice directly from department or partner staff upon which a reasonable person would normally rely;

(c) You were incapacitated due to illness or injury or other factors of similar gravity. "Illness" includes a request

from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if you have not been actually diagnosed with COVID-19; or

(d) Other factors which would effectively prevent a reasonably prudent person, as defined in WAC 192-100-010, facing similar circumstances, from meeting the time frames established under this section.

(6) If you return to work, and subsequently become unemployed, the time frames described in subsections (2) and (3) begin with the date you file your additional claim for benefits.

AMENDATORY SECTION (Amending WSR 12-09-025, filed 4/6/12, effective 7/1/12)

WAC 192-270-065 Certification of satisfactory progress. (1) In order to continue your eligibility for training benefits, the certification that you are making satisfactory progress in training must be signed by the registrar or an equivalent person designated by your educational institution. Except for dislocated workers eligible under RCW 50.22.155 (2)(a)(i), and disabled individuals as provided in RCW 50.22.155 (2)(c), training must be full-time as determined by the educational institution.

(2) Except as provided in subsection (3), for training benefits purposes the term "satisfactory progress" means:

(a) Your grade point average does not fall below 2.0 for two consecutive terms;

(b) You maintain a grade point average sufficient to graduate from, or receive certification in, your approved area of study; and

(c) You are completing sufficient credit hours to finish your approved course of study within the time frame established under your approved training plan.

(3) In the case of self-paced or ungraded learning programs, "satisfactory progress" means participating in classes and passing certification examinations within the time frame established under your approved training plan.

(4) Reasonable delays directly attributable to a COVID-19 infection or a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19 will not prevent a certification that you are making satisfactory progress in training.

AMENDATORY SECTION (Amending WSR 13-23-007, filed 11/7/13, effective 12/8/13)

WAC 192-310-030 What are the report and tax payment penalties and charges? (RCW 50.12.220.) (1) **Penalty for late tax and wage reports.** An employer who does not file a tax or wage report within the time frame required by WAC 192-310-010 (3)(d) must pay a penalty of twenty-five dollars for each violation, unless the penalty is waived by the department.

(2) **Definition of incomplete or incorrect format tax or wage report.** An employer must file tax and wage reports that are complete and in the format required by the commissioner.

(a) An "incomplete report" is any report filed by any employer or their agent where:

(i) The entire wage report is not filed on time; or

(ii) A required element is not reported (Social Security number, name, hours worked, or wages paid); or

(iii) A significant number of employees are not reported; or

(iv) A significant number of any given element is not reported, for example, missing Social Security numbers, names, hours, or wages; or

(v) Either the employment security department number or Unified Business Identifier (UBI) number is not included with the tax or wage report; or

(vi) The report includes duplicate Social Security numbers, or impossible Social Security numbers as shown by the Social Security Administration (such as 999-99-9991, 999-99-9992, etc.).

(b) An "incorrect format" means any report that is not filed in the format required by the commissioner under WAC 192-310-010 (3)(c). Agency forms include "drop-out ink" that cannot be copied. Therefore, photocopies are considered incorrectly formatted reports and forms.

(c) For purposes of this section, the term "significant" means an employer who has:

(i) One employee and reports incomplete wage elements for the one employee; or

(ii) Two to nineteen employees and reports incomplete wage elements for two or more employees; or

(iii) Twenty to forty-nine employees and reports incomplete wage elements for three or more employees; or

(iv) Fifty or more employees and reports incomplete wage elements for four or more employees.

(3) **Penalty for filing an incomplete or incorrectly formatted tax or wage report.** An employer who files an incomplete or incorrectly formatted tax and wage report will receive a warning letter for the first occurrence. For subsequent occurrences of either an incomplete or incorrectly formatted report within five years of the date of the last occurrence (whether or not the last occurrence was before the effective date of this amendatory section), the employer must pay a penalty as follows:

(a) When quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter: Ten percent of the quarterly contributions for each occurrence, up to a maximum of \$250.00, but not less than:

(i)	2nd occurrence	\$75.00
(ii)	3rd occurrence	\$150.00
(iii)	4th and subsequent occurrences	\$250.00

(b) When no quarterly tax is due and an employer has submitted an incomplete report or filed the report in an incorrect format, the following schedule will apply after the initial warning letter:

(i)	2nd occurrence	\$75.00
(ii)	3rd occurrence	\$150.00

(iii) 4th and subsequent occurrences \$250.00

(c) After five years without an occurrence, prior occurrences will not count and the employer shall receive a warning letter instead of a penalty on the next occurrence.

(4) **Penalty for knowingly misrepresenting amount of payroll.** If an employer knowingly (on purpose) misrepresents to the department the amount of his or her payroll that is subject to unemployment taxes, the penalty is up to ten times, in the discretion of the department, the difference between the taxes paid, if any, and the amount of taxes the employer should have paid for the period. This penalty is in addition to the amount the employer should have paid. The employer must also pay the department for the reasonable expenses of auditing his or her books and collecting taxes and penalties due as provided in WAC 192-340-100.

(5) **Late tax payments.** All employers must file a tax and wage report every quarter, including employers who have no payroll for a given quarter. If an employer does not report on time, it will be charged a late fee of \$25.00 for each report. If the payment is late, the employer will be charged interest at a rate of one percent of taxes due per month. A late payment penalty is also charged for overdue taxes:

(a) First month: Five percent of the total taxes due or \$10.00, whichever is greater;

(b) Second month: An additional five percent of total taxes due or \$10.00, whichever is greater; and

(c) Third month: An additional ten percent of total taxes due or \$10.00, whichever is greater.

(6) **Nonsufficient funds (NSF).** The department shall charge \$25.00 for checks dishonored by nonacceptance or nonpayment. This is considered a commercial charge under the Uniform Commercial Code (RCW 62A.3-515).

(7) **Waivers of late filing and late payment penalties.** The department may, for good cause, waive penalties for late filing of a report and late payment of taxes that are due with a report. The commissioner must decide if the failure to file reports or pay taxes on time was not the employer's fault.

(a) The department may waive late penalties when there are circumstances beyond the control of the employer. These circumstances include, but may not be limited to, the following:

(i) The return was filed on time with payment but inadvertently mailed to another agency;

(ii) The delinquency was caused by an employee of the department, such as providing incorrect information to the employer, when the source can be identified;

(iii) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family. "Serious illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if the individual has not been actually diagnosed with COVID-19;

(iv) The delinquency was caused by the unavoidable absence of the employer or key employee before the filing deadline. "Unavoidable absence" does not include absences

because of business trips, vacations, personnel turnover, or terminations;

(v) The delinquency was caused by the accidental destruction of the employer's place of business or business records;

(vi) The delinquency was caused by fraud, embezzlement, theft, or conversion by the employer's employee or other persons contracted with the employer, which the employer could not immediately detect or prevent. The employer must have had reasonable safeguards or internal controls in place; ~~((or))~~

(vii) The employer, before the filing deadline, requested proper forms from the department's central office or a district tax office, and the forms were not supplied in enough time to allow the completed report to be filed and paid before the due date. The request must have been timely, which means at least three days before the filing deadline; or

(viii) A COVID-19 infection at the employer's place of business caused the employer to close or severely curtail operations.

(b) The department may waive late penalties if it finds the employer to be out of compliance during an employer-requested audit, but the department decides the employer made a good faith effort to comply with all applicable laws and rules;

(c) The department may waive late penalties for failure to file a "no payroll" report for one quarter if a new business initially registered that it would have employees that quarter, but then delayed hiring its first employees until after that quarter; and

(d) The department will not waive late penalties if the employer has been late with filing or with payment in any of the last eight consecutive quarters immediately preceding the quarter for which a waiver is requested. If an employer has been in business for fewer than the eight preceding quarters, then all preceding quarters must have been filed and paid on time and a one-time only waiver may be granted.

(8) **Incomplete reports or incorrect format penalty waivers.** For good cause, the department may waive penalties or not count occurrences for incomplete reports or reports in an incorrect format when the employer can demonstrate that the incomplete or incorrectly formatted report was not due to the fault of the employer.

(9) **Missing and impossible Social Security numbers.** When a Social Security number is impossible or missing, the department may waive penalties for incomplete reports only once for each worker and only when:

(a) The report was incomplete because it included impossible Social Security numbers, but the employer can show that the impossible Social Security numbers were provided to the employer by the employees; or

(b) The report was incomplete because of missing Social Security numbers, but the employer can show that the employee did not work for the employer after failing to provide a valid Social Security card or application for Social Security number within seven days of employment.

(10) **Penalty waiver requests.**

(a) An employer must request a waiver of penalties in writing, include all relevant facts, attach available proof, and

file the request with a tax office. In all cases the burden of proving the facts is on the employer.

(b) At its discretion, the department may waive penalties on its own motion without requiring a request from the employer if it finds that the penalty was caused by the department's own error or for other good cause.

(11) **Extensions.** The department, for good cause, may extend the due date for filing a report. If granted, the employer must make a deposit with the department in an amount equal to the estimated tax due for the reporting period or periods. This deposit will be applied to the employer's debt. The amount of the deposit must be approved by the department.

NEW SECTION

WAC 192-320-078 Catastrophic occurrence. For the purposes or RCW 50.29.021 (4)(a)(iii), "catastrophic occurrence" includes a COVID-19 infection at the employer's place of business that causes the employer to close or severely curtail operations.

AMENDATORY SECTION (Amending WSR 13-24-108, filed 12/3/13, effective 1/3/14)

WAC 192-320-082 How will the department determine good cause exists for failing to respond timely or adequately?—RCW 50.29.021(6). (1) The department may find that good cause exists in certain situations when the employer fails to respond due to an unforeseen event outside of the employer's or employer's agent's control, such as:

(a) The death or serious illness of the employer. "Serious illness" includes a request from a medical professional, local health official, or the Secretary of Health to be isolated or quarantined as a consequence of COVID-19, even if the employer has not been actually diagnosed with COVID-19;

(b) Destruction of the employer's place of business or business records not caused by, or at the direction of, the employer or the employer's agent;

(c) Fraud or theft against the employer.

(2) The employer is responsible to provide all pertinent facts and evidence or documentation for the department to determine good cause.

WSR 20-07-040

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed March 10, 2020, 8:28 a.m., effective March 17, 2020]

Effective Date of Rule: March 17, 2020.

Purpose: Chapter 246-873A WAC, Hospital pharmacy associated clinics, the pharmacy quality assurance commission (commission) is establishing standards supporting the regulation, inspection, and investigation of pharmacy services provided in individual practitioner offices and multi-practitioner clinics owned and operated by a hospital based on a level of risk and the type of pharmacy services provided at a particular location. This filing supersedes and replaces

emergency rules filed as WSR 19-23-079 filed on November 19, 2019.

Citation of Rules Affected by this Order: New WAC 246-873A-010, 246-873A-020, 246-873A-030, 246-873A-040, 246-873A-050, 246-873A-060, 246-873A-070, 246-873A-080, 246-873A-090, and 246-873A-095.

Statutory Authority for Adoption: RCW 18.64.043(6).

Other Authority: RCW 18.64.043, 18.64.005.

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: SSB 6558 (chapter 118, Laws of 2016) amended RCW 18.64.043 directing the commission to adopt emergency rules to implement the bill and to keep the emergency rules in effect until permanent rules are adopted. The standards in this emergency rule have not changed from the previous emergency rule. The commission has filed a preproposal statement of inquiry, WSR 16-16-025, and has initiated stakeholder work on developing proposed 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 10, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 0, Repealed 0.

Date Adopted: March 10, 2020.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

Chapter 246-873A WAC

HOSPITAL PHARMACY ASSOCIATED CLINICS

NEW SECTION

WAC 246-873A-010 Definitions. The definitions in this section apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "Clinic" means a facility that is established primarily to furnish outpatient health care services by an individual or group of practitioners.

(2) "Commission" means the Washington state pharmacy quality assurance commission.

(3) "Compounding" means the preparation or combining of any two or more active ingredients or components into a drug product as the result of a practitioner's prescription drug

order or initiative based on the practitioner, patient, and pharmacist relationship in the course of professional practice or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. Compounding does not include mixing, reconstituting or other such acts that are performed in accordance with the directions contained in approved labeling provided by the product's manufacturer.

(4) "Hospital pharmacy associated clinic" or "HPAC" means an individual practitioner's office or multipractitioner clinic owned, operated, or under common control of a parent hospital or health system, where the physical address of the office or clinic is identified on a hospital pharmacy license.

(5) "Parent hospital pharmacy" means a hospital pharmacy licensed under chapter 70.41 RCW, adding hospital pharmacy associated clinics to their hospital pharmacy license in accordance with chapter 18.64 RCW and this chapter.

(6) "Practice of pharmacy" shall have the same meaning as RCW 18.64.011.

(7) "Practitioner" has the same meaning as RCW 18.64.-011, and those individuals authorized to possess drugs.

(8) "Prescription" has the same meaning as RCW 18.64.-011.

(9) "Responsible manager" has the same meaning as WAC 246-869-070.

(10) "Transfer" means to move drugs from the parent hospital pharmacy to the hospital pharmacy associated clinic.

NEW SECTION

WAC 246-873A-020 Hospital pharmacy associated clinic—Licensing. (1) New hospital pharmacy license. A parent hospital pharmacy applying for a new hospital pharmacy license or submitting a change in hospital ownership must:

(a) Submit a full application to the department and identify any HPACs to be included under the hospital pharmacy license, along with the applicable fees established under WAC 246-907-030 and 246-907-040; and

(b) Pass an inspection by a commission pharmacist investigator in accordance with this chapter.

(2) Current hospital pharmacy license holders. The parent hospital pharmacy must notify the commission in writing of any change of HPAC ownership, location of HPACs, and addition or removal of HPACs from the parent hospital pharmacy license.

(a) Adding HPACs. A parent hospital pharmacy may add HPACs on a hospital pharmacy license at any time and must file a hospital pharmacy license addendum with the commission along with applicable fees set forth in WAC 246-907-0302. Added HPACs are subject to inspection in accordance with this chapter.

(b) Removing HPACs. A parent hospital pharmacy removing HPACs from the parent hospital pharmacy license must comply with WAC 246-873A-095.

(3) HPAC locations are identified as follows:

(a) Category 1 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC, and does not perform sterile or nonsterile compounding of drugs. This does not infer that pharmaceutical services are provided at this location.

(b) Category 2 HPAC: Receives drugs transferred from the parent hospital pharmacy to the HPAC, and performs sterile or nonsterile compounding of drugs.

(4) A HPAC licensed under the parent hospital pharmacy license must obtain a Drug Enforcement Administration (DEA) registration for purposes of possessing controlled substances.

NEW SECTION

WAC 246-873A-030 Responsible manager. The responsible manager shall comply with the requirements of WAC 246-873-080 (3), (4), (7) and (8).

NEW SECTION

WAC 246-873A-040 Physical requirements of a HPAC. Physical requirements must be consistent with the applicable subsections of WAC 246-873-070 according to the HPAC category type.

NEW SECTION

WAC 246-873A-050 HPAC drug transfer and control. The following apply to both Category 1 and Category 2 HPACs:

(1) General drug transfer. A licensed hospital pharmacy is permitted without a wholesaler license to engage in intra-company sales, being defined as any transaction or transfer between any division, subsidiary, parent company, affiliated company, or related company under common ownership and control of the corporate entity;

(2) Patient specific drugs. A licensed hospital pharmacy dispensing appropriately labeled, patient specific drugs to a HPAC licensed under the parent hospital pharmacy may do so only pursuant to a valid patient order or prescription and the order or prescription information is authenticated in the medical record of the patient to whom the legend drug or controlled substance will be provided according to the policy and procedures of the parent hospital pharmacy.

(3) Storage. The parent hospital pharmacy's policy and procedures must specify HPAC drug storage parameters consistent with WAC 246-869-150.

(4) Drug samples. Nothing in this chapter prohibits a practitioner from dispensing drug samples in accordance with state and federal laws and regulations.

(5) Controlled substance accountability. The responsible manager of the parent hospital pharmacy must include accountability standards of controlled substances consistent with WAC 246-873-080(7) in the HPAC policies and procedures.

(6) Drug recall. A recall procedure must be in place to assure that potential harm to patients within a HPAC is prevented and that all drugs included on the recall are returned to the parent hospital pharmacy for proper disposition.

NEW SECTION

WAC 246-873A-060 Labeling. (1) Labels on medications dispensed to HPAC patients, including drug samples, must meet the requirements of RCW 69.41.050. This does not apply to HPAC administered medications.

(2) Parenteral and irrigation solutions in Category 2 HPACs. When drugs are added to intravenous solutions, a suitable label shall be affixed to the container and at a minimum should include the following:

- (a) The name of the patient;
- (b) Name and amount of drug(s) added;
- (c) Beyond use date; and
- (d) Initials of the personnel who prepared and checked the solution.

NEW SECTION

WAC 246-873A-070 Records. All transaction and inventory records must be maintained in compliance with applicable sections in chapter 246-875 WAC according to the HPAC category type.

NEW SECTION

WAC 246-873A-080 Administration of drugs. (1) Drugs administered in a HPAC shall only be administered by Washington state credentialed personnel, acting within their scope of practice, in accordance with state and federal laws and regulations governing such acts.

(2) Drugs must be administered only upon the valid order of a practitioner, as defined in RCW 69.50.101, who is licensed to prescribe legend drugs or controlled substances and who has been granted clinical privileges to write such orders.

(3) All medications administered to HPAC patients must be recorded in the patient's medical record.

NEW SECTION

WAC 246-873A-090 Inspections of HPAC. The commission shall conduct inspections of HPACs in conjunction with associated hospital pharmacy inspections under WAC 246-869-190 and consistent with WAC 246-869-110. All deficiencies shall be noted on the hospital pharmacy inspection form.

(1) A representative sample of Category 1 HPACs not performing compounding are subject to inspection as determined by the commission investigator. Category 1 HPACs will be inspected to the standards established in this chapter.

(2) All Category 2 HPACs performing on-site sterile or nonsterile compounding will be inspected. Category 2 HPACs will be inspected to standards established in this chapter, RCW 18.64.270, and chapter 246-878 WAC.

NEW SECTION

WAC 246-873A-095 Removal of HPAC from a hospital pharmacy license. (1) The parent hospital pharmacy shall notify the commission of the removal of a HPAC from the hospital pharmacy license no later than fifteen days prior

to the anticipated date of removal or closing of the HPAC. This notice must be submitted in writing and shall contain all of the following information:

(a) The date the HPAC will no longer be listed under the parent hospital pharmacy;

(b) The names and addresses of the person(s) who will have custody of the prescription files, the repackaging records, and the controlled substances inventory records of the HPAC being removed from the parent hospital pharmacy license or closed; and

(c) The names and addresses of any persons who will acquire any of the legend drugs, including controlled substances, from the HPAC.

(2) A written statement containing the following information must be filed with the commission no later than fifteen days after the planned removal of the HPAC:

(a) Confirmation that all legend drugs have been transferred to an authorized person(s) or destroyed. If the legend drugs were transferred, the names and addresses of the person(s), or alternate HPAC location(s) to whom they were transferred;

(b) If controlled substances were transferred, a list of the name(s) and address (or addresses) of the DEA registrant(s) to whom the substances were transferred, the substances transferred, the amount of each substance transferred, and the date on which the transfer took place;

(c) Confirmation that the DEA registration and all unused DEA 222 forms (order forms) were returned to the DEA;

(d) Confirmation that all labels and blank prescriptions in the possession of the HPAC were destroyed or otherwise accounted for; and

(e) Confirmation that all signs and symbols indicating the ownership or affiliation to the parent hospital pharmacy have been removed.

WSR 20-07-044**EMERGENCY RULES****BOARD OF****PILOTAGE COMMISSIONERS**

[Filed March 10, 2020, 10:46 a.m., effective March 10, 2020, 10:46 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend WAC 363-116-082 Limitations on new pilots, to address limited training opportunities in the Duwamish Waterway due to reduced traffic. The board continues to work toward codification of this emergency rule through the standard public notice process.

Citation of Rules Affected by this Order: Amending WAC 363-116-082.

Statutory Authority for Adoption: Chapter 88.16 RCW.

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

Reasons for this Finding: Due to limited training opportunities in the Puget Sound Pilotage District, the board will limit the license for first-year pilots in the Duwamish Waterway. The license restriction will prohibit first-year pilots from piloting vessels greater than three thousand gross tons in the Duwamish Waterway. The restriction will be lifted through the license upgrade program developed by the board's trainee evaluation committee for second year pilots. This emergency rule is necessary due to the advanced level of piloting skill required to navigate the Duwamish Waterway and lack of opportunities to obtain the required number of observation, training, and evaluation trips. Inadequate training opportunities in challenging waterways could put in jeopardy the board's mission of safety.

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

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

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

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

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

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

Date Adopted: December 16, 2019.

Jaimie C. Bever
Executive Director

AMENDATORY SECTION (Amending WSR 19-06-007, filed 2/22/19, effective 3/25/19)

WAC 363-116-082 Limitations on new pilots. (1) The following limitations and pilot license upgrade requirements shall apply to a newly licensed pilot during his/her first five years of active service. For purposes of this section, the term "tank vessel" shall, in addition to tank ships, include any articulated or integrated tug and tank barge combinations, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. For purposes of this section, the term "petroleum products" shall include crude oil, refined products, liquefied natural gas, and liquefied petroleum gas. GT (ITC) as used in this section refers to gross tonnages measured in accordance with the requirements of the 1969 International Convention on Tonnage Measurement of Ships.

(2) Puget Sound pilotage district - License limitation periods. Except for trips being made for pilot license upgrades, licenses issued in the Puget Sound pilotage district shall have the following limitations:

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels	Waterways
1	Piloting on vessels of any size prohibited	38,000 GT (ITC) except for passenger vessels which may only have a maximum size of 5000 GT (ITC)	<u>Prohibited in the Duwamish Waterway on vessels greater than 3,000 GT</u>
2	32,000 GT (ITC)	48,000 GT (ITC)	<u>No restrictions</u>
3	40,000 GT (ITC)	60,000 GT (ITC)	<u>No restrictions</u>
4	50,000 GT (ITC)	70,000 GT (ITC)	<u>No restrictions</u>
5	65,000 GT (ITC)	95,000 GT (ITC)	<u>No restrictions</u>

(3) Puget Sound pilotage district - Pilot license upgrade requirements. Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of eight trips to be made by each pilot in the last one hundred twenty days of each year of the license limitation periods specified in subsection (2) of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, or between the pilot station and a port. The supervising pilots shall complete and submit to the board an evaluation form provided by the board for each trip a new pilot performs.

(4) Grays Harbor pilotage district - License limitation periods. Pilots licensed in the Grays Harbor pilotage district shall not pilot vessels in violation of the restrictions set forth in the table below during the indicated license year.

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	32,000 GT (ITC) except that piloting on vessels of any size is prohibited through the Chehalis River Bridge unless vessel is in ballast and does not exceed 25,000 GT (ITC)
2	15,000 GT (ITC)	42,000 GT (ITC)
3	32,000 GT (ITC)	52,000 GT (ITC)
4	42,000 GT (ITC)	62,000 GT (ITC)
5	52,000 GT (ITC)	72,000 GT (ITC)

Notwithstanding subsection (7) of this section, upon determination that a bona fide safety concern may result from no pilot without license restrictions being available within a reasonable time to pilot a vessel requiring pilotage services, the chairperson or acting chairperson of the board, on a single trip basis, may authorize a newly licensed pilot holding a restricted license to provide pilotage services to the vessel, irrespective of the tonnage, service or location of the assigned berth of the vessel.

(5) Grays Harbor pilotage district - Pilot license upgrade requirements.

(a) Prior to the expiration of the first license year, a new pilot must make five license upgrade trips. Three of these trips shall be through the Chehalis River Bridge on loaded or partially loaded vessels. The other trips shall be on vessels in excess of 32,000 GT (ITC) and involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(b) Prior to the expiration of the second license year, a new pilot must make two license upgrade trips on tank vessels in excess of 15,000 GT (ITC) and two trips on other vessels in excess of 42,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and two of these trips shall involve turning the vessel in the waterway. Upon satisfactory completion of the two upgrade trips upon tank vessels and completion of the second license year, the pilot will be authorized to pilot tank vessels in accordance with the limitations specified in subsection (4) of this section. Upon satisfactory completion of the two upgrade trips upon other vessels in excess of 42,000 GT (ITC) and completion of the second license year, the pilot will be authorized to pilot vessels in accordance with the limitations specified in subsection (4) of this section.

(c) Prior to the expiration of the third license year, a new pilot must make two license upgrade trips on tank vessels in excess of 32,000 GT (ITC) and two trips on other vessels in excess of 52,000 GT (ITC). Two of these trips shall involve

docking and passage to or from the sea buoy; and two of these trips shall involve turning the vessel in the waterway.

(d) Prior to the expiration of the fourth license year, a new pilot must make two license upgrade trips on tank vessels in excess of 42,000 GT (ITC) and two trips on other vessels in excess of 62,000 GT (ITC).

(e) Prior to the expiration of the fifth license year, a new pilot must make two license upgrade trips on tank vessels in excess of 52,000 GT (ITC) and two trips on other vessels in excess of 72,000 GT (ITC).

(f) If vessels are not available in the Grays Harbor pilotage district to allow a pilot to comply with (a) through (e) of this subsection in a timely manner, the board may designate substitute trips in the Puget Sound pilotage district as allowed by law and in so doing may specify the size of the vessel and any other characteristics of the trips that the board deems appropriate. Such designation shall be considered a modification of the pilot's state license to authorize the specified trips in the Puget Sound pilotage district.

(6) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he/she shall notify the board and request a revised schedule of limitations.

(7) Except as provided in subsection (4) of this section, no pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(8) All limitations on a pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the board a statement attesting to the fact that he/she has completed all the required license upgrade trips and the vessel simulator courses.

WSR 20-07-048

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 20-44—Filed March 10, 2020, 12:25 p.m., effective March 16, 2020]

Effective Date of Rule: March 16, 2020.

Purpose: Amend fishing rules for Klickitat River, Wind River, Drano Lake, and Salmon Creek.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000I; and amending WAC 220-312-030.

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 rule is needed to reduce the adult salmon daily limit for the Wind River, Klickitat

River, and Drano Lake. This rule is also needed to open retention of hatchery steelhead returning to Salmon Creek.

An estimated two thousand adult spring Chinook are forecast to return to the Wind River in 2020. Managers need to reduce the adult salmon daily limit to ensure that broodstock collection goals are achieved. Reducing the adult salmon daily limit will provide continued opportunity for anglers to harvest Spring Chinook and help ensure future hatchery returns.

An estimated four thousand six hundred adult spring Chinook are forecast to return to Drano Lake in 2020. Managers need to reduce the adult salmon daily limit to ensure that broodstock collection goals are achieved. Reducing the adult salmon daily limit will provide continued opportunity for anglers to harvest Spring Chinook and help ensure future hatchery returns.

An estimated one thousand eight hundred adult spring Chinook are forecast to return to the Klickitat River in 2019. Managers need to reduce the adult salmon daily limit to ensure that hatchery Chinook broodstock goals are achieved. Reducing the adult salmon daily limit will provide continued opportunity for anglers to harvest Spring Chinook and help ensure future hatchery returns.

Recent changes to hatchery steelhead programs, resulting from the Mitchell Act Biological Opinion, have resulted in the replacement of "early" returning winter steelhead stocks with local stocks that exhibit a somewhat later run timing. This rule opens hatchery steelhead fishing during the timeframe outlined above and provides anglers with additional time to harvest these fish from Salmon Creek.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 10, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-03000 Freshwater exceptions to state-wide rules—Southwest. Notwithstanding the provisions of WAC 220-312-030, effective March 16, 2020 until further notice:

(1) **Cispus River (Lewis Co.):** Chinook Salmon: Closed.

(2) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis Co.):** Chinook Salmon: Closed.

(3) **Cowlitz River (Cowlitz Co.):** Chinook Salmon: Closed.

(4) **Drano Lake (Skamania Co.):** in the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish hatchery and upstream of Highway 14 Bridge; Salmon and steelhead: Daily limit 2, no more than 1 may be an adult salmon. Only hatchery Chinook and hatchery steelhead may be retained.

(5) **Kalama River (Cowlitz Co.):** From the mouth upstream to 1000 feet below the fishway at the upper salmon hatchery; Salmon: Daily limit 6; up to 1 may be an adult. Release all salmon other than hatchery Chinook and hatchery coho.

(6) **Klickitat River (Klickitat Co.):**

(a) From the mouth (Burlington Northern Railroad Bridge) to Fisher Hill Bridge, effective immediately until further notice:

(i) Salmon and steelhead: Effective April 1 through May 22, 2020:

(A) Open Mondays, Wednesdays, and Saturdays only.

(B) Daily limit 2, no more than 1 may be an adult salmon; release wild Chinook and wild steelhead.

(ii) Salmon: Effective May 23, 2020 until further notice: Daily limit 6, up to 1 adult may be retained. Release wild Chinook.

(b) From 400 feet upstream of the #5 fishway to the boundary markers below Klickitat Salmon Hatchery, effective May 23, 2020 until further notice: Salmon: Daily limit 6. Up to 1 adult may be retained. Release wild Chinook.

(7) **Lewis River (Clark/Cowlitz Co.):** Salmon: Closed.

(8) **Salmon Creek (Clark Co.),** from the mouth to the 182 Avenue bridge, effective immediately through May 22, 2020; Steelhead:

(i) Selective gear rules, except barbed hooks are allowed.

(ii) Minimum size 20 inches. Daily limit 3. Release wild steelhead.

(9) **Wind River (Skamania Co.):**

(a) From the mouth to 400 feet downstream of Shipherd Falls fish ladder, effective March 16, 2020 until further notice; Salmon and steelhead: Daily limit 6; no more than 2 hatchery steelhead, or 1 hatchery steelhead and 1 adult salmon may be retained: Release wild Chinook, wild coho, and wild steelhead.

(b) From 100 feet upstream of Shipherd Falls to 800 yards downstream of Carson National Fish Hatchery, effective May 1, 2020 until further notice: Daily limit 6; no more than 2 hatchery steelhead, or 1 hatchery steelhead and 1 adult salmon may be retained.

Reviser's note: The section above appears as filed by the agency pursuant to RCW 34.08.040; however, the reference to WAC 220-312-03000 is probably intended to be WAC 220-312-03000J.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective March 16, 2020:

WAC 220-312-03000I Freshwater exceptions to statewide rules—Southwest. (20-35)

WSR 20-07-051
EMERGENCY RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed March 11, 2020, 8:43 a.m., effective March 11, 2020, 8:43 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Sate [State] employees who are not required to work during suspended operations due to novel coronavirus disease 2019 (COVID-19) will not receive any loss of pay; to require an employer to grant leave with pay (LWP) when an employee is required by Centers of Disease Control and Prevention (CDC) guidelines to self-quarantine due to COVID-19 but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework; to allow a higher education employer to grant LWP when an employee is required by CDC guidelines to self-quarantine due to COVID-19 but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework; to require an employer to grant leave without pay (LWOP) when an employee requests to be on LWOP due to COVID-19 to protect themselves, a family member or a household member; to state that a general government employee's anniversary date, unbroken service date, periodic increment date (PID) and seniority date will not be impacted by taking LWOP due to COVID-19; and to state that a higher education employee's PID and seniority date will not be impacted by taking LWOP due to COVID-19.

Citation of Rules Affected by this Order: Amending WAC 357-31-265, 357-31-325, 357-31-326, 357-31-327, 357-31-345, 357-31-346, 357-31-347, and 357-46-055.

Statutory Authority for Adoption: Chapter 41.06 RCW.

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: To align Title 357 WAC with Governor Jay Inslee's Proclamation 20-05 issued February 29, 2020, which declares a state of emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor further declared that state agencies and departments are directed to use state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the outbreak. The worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and Washington state significantly impacts the life and health of our people, as well as the economy of Washington state, and is a public disaster that affects life, health, property or the public peace.

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 8, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Date Adopted: March 11, 2020.

Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday, or accrued vacation leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

Employees not required to work during suspended operations due to coronavirus disease 2019 (COVID-19) will not receive any loss of pay. This is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later.

AMENDATORY SECTION (Amending WSR 14-11-033, filed 5/14/14, effective 6/16/14)

WAC 357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination? Leave with pay **must** be granted to an employee:

(1) To allow an employee to receive assessment from the employee assistance program.

(2) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(a) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(b) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(3) When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.

(4) When a general government employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.

AMENDATORY SECTION (Amending WSR 17-18-029, filed 8/28/17, effective 10/2/17)

WAC 357-31-326 When may an employer grant leave with pay? ~~((H))~~ An employer may grant leave with pay:

(1) For an employee to perform civil duties as a volunteer including but not limited to firefighting, search and rescue efforts, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(2) In the department of natural resources, leave with pay equivalent to one regular workshift may be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

(3) When a higher education employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer

may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.

AMENDATORY SECTION (Amending WSR 14-24-024, filed 11/21/14, effective 12/22/14)

WAC 357-31-327 When must an employer grant leave without pay? An employer must grant leave without pay under the following conditions:

(1) When an employee who is a volunteer firefighter is called to duty to respond to a fire, natural disaster, or medical emergency;

(2) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.-020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; or

(3) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(4) When an employee requests a day off for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization in accordance with WAC 357-31-052.

(5) When an employee requests to be on leave without pay due to the novel coronavirus disease 2019 (COVID-19) to protect themselves, a family member or a household member. An employer may require written verification, including verification submitted electronically, before or during the period of leave without pay confirming the circumstances warranting the leave. Written verification may include a signed affidavit from the employee or any other information requested by the employer. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later.

AMENDATORY SECTION (Amending WSR 09-11-068, filed 5/14/09, effective 6/16/09)

WAC 357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date, periodic increment date, and seniority date? (1) For a general government employee, the anniversary date, unbroken service date, and periodic increment date is adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:

(a) Military leave of absence without pay as provided in WAC 357-31-370;

(b) Compensable work-related injury or illness leave;

(c) Government service leave not to exceed two years and one month;

(d) Educational leave, contingent upon successful completion of the coursework; ~~((and/or))~~

(e) Voluntarily reducing the effect of an employer's layoff; and/or

(f) Novel coronavirus disease 2019 (COVID-19) in accordance with WAC 357-31-327.

(2) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's anniversary date, unbroken service date and periodic increment date must be moved forward in an amount equal to the number of calendar days on leave without pay.

(3) For a general government employee the seniority date is adjusted for leave without pay in accordance with WAC 357-46-055.

AMENDATORY SECTION (Amending WSR 16-11-055, filed 5/13/16, effective 6/20/16)

WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?

For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten working days in a month except when the leave without pay is taken for:

(1) Military leave of absence without pay as provided in WAC 357-31-370;

(2) Compensable work-related injury or illness leave; ~~((and/or))~~

(3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC 357-19-295; and/or

(4) Novel coronavirus disease 2019 (COVID-19) in accordance with WAC 357-31-327.

AMENDATORY SECTION (Amending WSR 05-12-081, filed 5/27/05, effective 7/1/05)

WAC 357-31-347 Does leave without pay affect a higher education employee's seniority date? (1) In accordance with WAC 357-46-053, each higher education employer's layoff procedure defines how seniority is determined including any adjustments made for periods of leave without pay. As provided by WAC 357-19-297, scheduled cyclic leave without pay for an employee in cyclic year positions does not affect the employee's seniority date; or

(2) When leave without pay is taken due to the novel coronavirus 2019 (COVID-19) in accordance with WAC 357-31-327 the seniority date will not be adjusted for the period of leave without pay.

AMENDATORY SECTION (Amending WSR 14-06-007, filed 2/20/14, effective 3/24/14)

WAC 357-46-055 How is a general government employee's seniority date determined? (1) For a full-time general government employee, the seniority date is the employee's most recent date of hire into state service (including exempt service) as adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:

(a) Military leave as provided in WAC 357-31-370;

(b) Compensable work-related injury or illness leave;

(c) Government service leave not to exceed two years and one month;

(d) Educational leave, contingent upon successful completion of the coursework; and/or

(e) Reducing the effects of layoff.

(f) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's seniority date must be moved forward in an amount equal to the number of calendar days on leave without pay.

(g) Novel coronavirus disease 2019 (COVID-19) in accordance with WAC 357-31-327.

(2) For a part-time general government employee, the seniority date is calculated by determining the number of actual hours worked and/or in paid status, excluding compensatory time off. Actual hours worked includes overtime hours regardless of whether or not the employee receives monetary payment or compensatory time for the hours worked. Time spent in leave without pay status is not credited unless the leave without pay is taken for:

(a) Military leave as provided in WAC 357-31-370;

(b) Compensable work-related injury or illness leave;

(c) Government service leave not to exceed two years and one month;

(d) Educational leave, contingent upon successful completion of the coursework; ~~((and/or))~~

(e) Reducing the effects of layoff; and/or

(f) Novel coronavirus disease 2019 (COVID-19) in accordance with WAC 357-31-327.

WSR 20-07-060

EMERGENCY RULES

PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed March 12, 2020, 3:26 p.m., effective March 12, 2020, 3:26 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This WAC language allows preparation program providers to review a candidate's work and learning experiences, and waive required clinical practice and/or coursework if the program determines the candidate has the

knowledge and skills to be otherwise gained from the required clinical practice or course work.

Citation of Rules Affected by this Order: New WAC 181-78-027.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Reasons for this Finding: Changes in educational settings due to current public health concerns mean that some educator candidates are unable to complete clinical practice and coursework in traditional settings. This filing allows preparation programs to review a candidate's previous field experience and coursework to determine if the candidate has the requisite knowledge and skills.

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

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

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

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

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

Date Adopted: March 12, 2020.

Maren Johnson
Rules Coordinator

NEW SECTION

WAC 181-78A-027 Waiver of clinical practice and course work by a preparation program provider. Based on review of current educational settings, and review of a candidate's previous course work, field experiences, work experiences, and alternative learning experiences, an educator preparation program provider may waive or reduce in length the required clinical practice, and/or waive required course work, if based on the review the provider determines that the candidate has the knowledge and skills to be otherwise gained from the required clinical practice or course work.

WSR 20-07-063

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Filed March 13, 2020, 10:17 a.m., effective March 13, 2020, 10:17 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of licensing is adopting emergency rule making to change the requirement that prohibits cosmetology schools from offering more than twenty five percent of training online; this requirement will be extended to one hundred percent until further notice to assist with the COVID-19 response efforts.

Citation of Rules Affected by this Order: Amending WAC 308-20-010.

Statutory Authority for Adoption: RCW 18.16.030 and 43.24.023.

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 change is to limit the in-class training to assist with COVID-19 response efforts allowing cosmetology schools to provide online training.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, 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 13, 2020.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-19-049, filed 9/12/17, effective 10/13/17)

WAC 308-20-010 Definitions. (1) "Chemical compounds formulated for professional use only" are those compounds containing hazardous chemicals in a form not generally sold to the public; including but not limited to, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances, facial creams, or approved chemical compounds. These compounds must be designated for use on the hair, face, neck, skin, or scalp.

(2) "Monthly student report" are forms provided by the school, approved by the department, preprinted with the

school name. The report must include the month, year and daily activities of the student in each subject, (i.e., number of shampoos, haircuts, perms, colors, etc.) within each course (i.e., barbering, manicuring, cosmetology, hair design, esthetics, master esthetics, or instructor-trainee).

(3) "Completed and graduated" is the completion of the school curriculum and the state approved minimum hourly course of training.

(4) "Apprentice salon/shop" is a location certified by the Washington state apprenticeship and training council, that provides training for individuals accepted into the apprenticeship program. Apprentice salon/shops shall not receive payment from the apprentice for training.

(5) "Apprentice trainer" is a person that is currently licensed and in good standing. This person provides training in a licensed shop approved for the apprenticeship program, who must have received journey level training and have held a license in the curriculum for which he or she is providing training for a minimum of three years.

(6) "Journey level training" is the completion of three years working as a licensed cosmetologist, hair designer, barber, manicurist, esthetician, or master esthetician.

(7) "Completion of the apprenticeship training" is the completion of the apprentice salon/shop curriculum that includes the state approved hourly course of training as described in WAC 308-20-080.

(8) "Monthly apprentice report" forms provided by the apprentice shop, approved by the department, printed with the shop name, for use in recording apprentice training hours and activities.

(9) "Online training" means an approved electronic learning environment through a licensed school in which a student is enrolled. This training is limited to theory only. Online training may be used for up to ~~((twenty-five))~~ one hundred percent of the approved course of study.

(10) "Accreditation" is a status granted to a postsecondary school by one or more of the accrediting organizations recognized and approved by the U.S. Secretary of Education. Accreditation is voluntary and does not imply automatic transfer of credits from one postsecondary school to another.

(11) "Admission requirements" means the specific minimum criteria a school must use when accepting a student into the school.

WSR 20-07-068

EMERGENCY RULES

DEPARTMENT OF LICENSING

[Filed March 13, 2020, 3:00 p.m., effective March 13, 2020, 3:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of licensing is adopting emergency rule making to change the delivery method of the classroom hours of instruction; this requirement will be modified until further notice to assist with the COVID-19 response efforts.

Citation of Rules Affected by this Order: Amending WAC 308-108-150.

Statutory Authority for Adoption: RCW 46.01.110 and 46.82.290.

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: This emergency change will provide driver training schools the flexibility to adopt web based methods of instruction to assist with COVID-19 response efforts.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, 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 13, 2020.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-07-058, filed 3/18/19, effective 4/18/19)

WAC 308-108-150 Course requirements. Driver training schools that provide education for persons under the age of eighteen must ensure their course:

(1) Includes a minimum of thirty hours of classroom instruction;

(2) Meets the behind the wheel instruction and observation requirements of WAC 308-108-160;

(3) Has a minimum of one hour and no more than two hours of classroom instruction and no more than one hour of behind the wheel instruction during a single day, except when adding a make-up class, in which case classroom instruction must not exceed four hours in a single day;

(4) Has a classroom portion that is at least fifty-percent instructor-led with verbal instruction consisting of:

(a) In-person training or live interactive web based learning;

(b) Teacher and student interaction;

(c) Questions and answers ~~((and~~

~~((d) No more than six make-up hours of alternative classroom instruction, delivering the same information that was missed))~~);

(5) Has all students in a classroom session on the same lesson, with the exception of make-up lessons. Open enrollment or self-paced instruction is not permitted;

(6) Is not completed in fewer than thirty calendar days;

(7) Includes comprehensive final written and behind the wheel examinations;

(8) Has a flow chart that indicates how the classroom and behind the wheel instruction are completed throughout the course;

(9) Includes information on the state of Washington's intermediate license requirements, restrictions, violations, and sanctions for violation of these requirements;

(10) Includes the delivery of instructional material developed by the department and the federally designated organ procurement organization for Washington state relating to organ and tissue donation awareness education; and

(11) Has a designated time for a parent, guardian, or employer night that is no less than one hour, which may fulfill one of the thirty hours required for student training, and must include:

(a) Instruction on the parent, guardian, or employer responsibilities and the importance of parent, guardian, or employer involvement with the teen driver;

(b) Information on intermediate license laws, restrictions, and sanctions;

(c) An introduction to the parent guide to teen driving; and

(d) A questions and answers period.

WSR 20-07-069

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed March 13, 2020, 3:13 p.m., effective March 13, 2020, 3:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The rule making is proposed in order to provide support to employees and employers impacted by the COVID-19 virus across the state. This emergency rule relates to expanding standby status for all part-time workers and less than full-time workers (WAC 192-110-015).

Citation of Rules Affected by this Order: Amending WAC 192-110-015.

Statutory Authority for Adoption: RCW 50.12.040.

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

Reasons for this Finding: In Proclamation 20-05, Governor Inslee proclaimed a State of Emergency in Washington regarding COVID-19. The proclamation directs agencies and departments to support the department of health and local officials in alleviating the impacts to people, property, and infrastructure across the state.

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

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

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

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

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

Date Adopted: March 13, 2020.

Dan Zeitlin

Employment Security Policy Director

AMENDATORY SECTION (Amending WSR 20-03-073, filed 1/10/20, effective 2/10/20)

WAC 192-110-015 Applications by standby workers—RCW 50.20.010. (1) What is "standby?"

(a) "Standby" means you are temporarily unemployed because of a lack of work but:

(i) You expect to return to work with your regular employer within four weeks; or

(ii) You expect to begin full-time work with a new employer within two weeks; or

(iii) You are temporarily unemployed due to natural disaster.

(b) You do not have to register for work or look for other work while you are on standby.

(c) You must be available for all hours of work offered by your regular employer.

(2) How long can I be on standby?

(a) You can ask to be on standby for up to four weeks.

(b) We will ask your employer to verify that you are on standby, including your expected return to work date:

(i) If your employer does not reply, you can be on standby for up to four weeks;

(ii) If your employer confirms you are on standby, you can be on standby until the return to work date given by your employer, subject to the limitations of (c) of this subsection;

(iii) If your employer replies that you are not on standby or do not have a return to work date within eight weeks, we will require you to immediately register for work and to look for work.

(c) Your regular employer may ask that you be placed on standby for a maximum of eight weeks (except as provided in (2)(d) below). This request must be approved by the department. We will consider the following before deciding whether to approve standby for more than four weeks:

(i) How long you have been out of work;

(ii) Whether other suitable work is available;

(iii) The impact on you and your employer if you accept other work; and

(iv) Other factors that apply to your situation.

(d) At his or her discretion, the commissioner may grant standby for more than eight weeks in a benefit year. Exceptions can be made due to natural disaster. Exceptions can also be made in other extraordinary circumstances when the employer applies in writing and shows there are conditions that apply to the business that are so unique or unusual compared to similar businesses that having their employees on standby for more than eight weeks is necessary.

(e) We can approve standby if you have obtained a definite offer of bona fide full-time work that has a probable start date within two weeks, which includes the week of the job offer and up to two additional weeks. The job, however, must be:

(i) With a new employer or with a former employer to whom you are no longer attached as provided in subsection (3)(f) of this section; and

(ii) Covered by Title 50 RCW or the comparable laws of another state or the federal government.

(3) Are there conditions that apply to a request for standby?

(a) You must have a probable date when you will return to work for your regular employer;

(b) We will not approve standby if you only have prospects of future work with your regular employer or a promise of more work at some unspecified date;

(c) We will not approve standby with your regular employer unless the employment is covered by Title 50 RCW or the comparable laws of another state or the federal government;

~~(d) ((Except for claimants who qualify as part-time eligible workers under RCW 50.20.119, we will not approve standby if you regularly work less than full-time. For purposes of this section, "full-time" means forty hours each week or the number of hours that are full-time for your occupation and labor market area;))~~ Effective March 8, 2020, standby is available to all full-time, part-time, and other less than full-time employees;

(e) Any week(s) that you do not qualify for benefits will not be considered as part of the maximum eight weeks of standby; and

(f) After eight consecutive weeks of unemployment, we will no longer consider you attached to that employer. You must meet the job search requirements specified by RCW 50.20.010 (1)(c) and 50.20.240.

(4) When does standby begin?

(a) Standby begins the day of your request unless your request is backdated pursuant to (b) of this subsection.

(b)(i) You may backdate your request for standby up to one week for any reason.

(ii) Your request for standby may also be backdated for the convenience of the department. "For the convenience of the department" means for the purpose of program administration; or those situations where it is difficult or impossible to accept a timely request including, but not limited to, equipment breakdowns, lack of available staff, or special handling requirements.

WSR 20-07-070

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 20-46—Filed March 13, 2020, 6:09 p.m., effective March 13, 2020, 6:09 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000S; 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: This emergency rule is needed to open the recreational razor clam season. 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 this beach 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 Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: March 13, 2020.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000S 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 p.m. March 20, 2020 through 11:59 p.m. March 23, 2020, and 12:01 p.m., razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. March 20, 2020 through 11:59 p.m. March 23, 2020, and 2:01 p.m., razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. March 21, 2020 through 11:59 p.m. March 21, 2020, and 12:01 p.m. March 23, 2020 through 11:59 p.m. March 23, 2020, razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. March 20, 2020 through 11:59 p.m. March 20, 2020, and 12:01 p.m. March 22, 2020

through 11:59 p.m. March 22, 2020, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(5) It is unlawful to dig for razor clams at any time in the Long Beach, Twin Harbors 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., March 24, 2020:

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

WSR 20-07-076

EMERGENCY RULES

DEPARTMENT OF ECOLOGY

[Filed March 16, 2020, 11:28 a.m., effective March 16, 2020, 11:28 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: On July 30, 2019, the department of ecology (ecology) adopted an emergency rule, chapter 173-443 WAC, Hydrofluorocarbons (HFCs), to establish a program to implement and enforce the requirements of chapters 70.235 and 70.94 RCW (see chapter 284, Laws of 2019, E2SHB 1112) related to reducing greenhouse gasses by transitioning to the use of less damaging HFCs or suitable substitutes.

Ecology adopted a second emergency rule on November 21, 2019, (WSR 19-24-005) that is effective through March 20, 2020.

This third emergency rule supersedes the one adopted on November 21, 2019, (WSR 19-24-005) and will be effective from March 16 through July 14, 2020. Ecology will continue to adopt emergency rules until the permanent rule goes into effect by the end of 2020. No rule changes were made during this third emergency rule making.

The emergency rule makings established chapter 173-443 WAC, Hydrofluorocarbons (HFCs), and established the means by which manufacturers, importers, and distributors of various products and equipment containing HFCs submit an initial notification to ecology by December 31, 2019, and a status update notification within one hundred twenty days of when applicable restrictions take effect.

The restriction deadline for the new and existing vending machine end-use category was modified from January 1, 2020, to January 1, 2022.

We began a rule-making process for the permanent adoption of the rule. Please visit our website for information and to participate in the rule-making process <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rule-making/WAC173-443>.

Citation of Rules Affected by this Order: New chapter 173-443 WAC, Hydrofluorocarbons (HFCs).

Statutory Authority for Adoption: Chapter 284, Laws of 2019 (E2SHB 1112) Hydrofluorocarbons greenhouse gas emissions; chapter 70.235 RCW, Limiting greenhouse gas emissions; and chapter 70.94 RCW, Washington Clean Air Act.

Other Authority: Not applicable.

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: Chapter 284, Laws of 2019 (E2SHB 1112) was signed into law on May 7, 2019. The law amends chapters 70.235 and 70.94 RCW. It established a deadline of December 31, 2019, for manufacturers, importers, and distributors of various products and equipment containing HFCs to submit initial reports to ecology. It also sets restriction deadlines for specific end-use categories. This rule establishes the method for providing notice to ecology by the deadlines.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 7, 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 16, 2020.

Laura Watson
Director

Chapter 173-443 WAC

HYDROFLUOROCARBONS (HFCs)

NEW SECTION

WAC 173-443-010 Policy and purpose. (1) It is the policy of the department of ecology (ecology) under the authority vested in it by chapter 43.21A RCW to provide for the systematic control of air pollution from air contaminant sources and for the proper development of the state's natural resources.

(2) As authorized by chapter 284, Laws of 2019 (E2SHB 1112, Hydrofluorocarbon greenhouse gas emissions), it is the purpose of this chapter to establish the requirements for the transition to the use of less damaging hydrofluorocarbons or suitable substitutes in various applications in Washington in a manner similar to regulations adopted by the Environmental Protection Agency, and that have been subsequently adopted or will be adopted in other states.

NEW SECTION

WAC 173-443-020 Definitions. "Manufacturer" means the same as defined in chapter 284, Laws of 2019: Any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any

product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

"Product class" means the same as end-use, as defined in Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017: Processes or classes of specific applications within major industrial sectors where a substitute is used to replace an ozone-depleting substance.

NEW SECTION

WAC 173-443-030 Manufacturer notification. (1)

The manufacturer of products that contain or use hydrofluorocarbons or other restricted substitutes under chapter 284, Laws of 2019, or a trade organization on behalf of its member manufacturers, must report to the department consistent with WAC 173-443-040 and 173-443-050.

(2) It is only necessary for one person or entity to report with respect to a particular product that contains or uses hydrofluorocarbons or other restricted substitutes under chapter 284, Laws of 2019.

(3) In the event of a failure by at least one person to provide a complete, accurate and timely report for a product within a product class, ecology will require information from manufacturers associated with a product in the following order of precedence:

(a) The person or entity that had the product manufactured, unless it has no presence in the United States.

(b) The person or entity that marketed the product under its name or trademark, unless it has no presence in the United States.

(c) The first person or entity, whether an importer or a distributor, that owned the product in the United States.

(d) This hierarchy in no way limits the liability of any manufacturer as defined in subsection (2) of this section associated with a product from enforcement under chapter 284, Laws of 2019, or rules promulgated thereunder.

NEW SECTION

WAC 173-443-040 Initial notification. (1) By December 31, 2019, each manufacturer or its representative must provide ecology an initial status notification of the status of products within each product class using hydrofluorocarbons or other substitutes covered under chapter 284, Laws of 2019. This must include all covered products that the manufacturer offers for sale, leases, rents, or installs in Washington. All manufacturers must notify ecology by completing and submitting ecology's notification form. The current version of the form may be obtained at ecology's web site.

(2) Using a form provided by ecology, this initial status notification must include:

(a) Contact information on the manufacturer.

(b) The name of the party authorized to represent the manufacturer for purposes of providing initial status notifications and status updates.

(c) All product classes that are applicable to the manufacturer.

(d) Which hydrofluorocarbons or other substitutes are being used by products within each product class applicable to the manufacturer.

(e) Signature and certification by the authorized representative for the manufacturer.

NEW SECTION

WAC 173-443-050 Status update notification. Within one hundred twenty days after the date of a restriction put in place by chapter 284, Laws of 2019, each manufacturer affected by the restriction or its representative must provide ecology with an updated status notification using ecology's form. This notification must include:

(1) Whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under chapter 284, Laws of 2019 within each product class.

(2) What, if any, hydrofluorocarbons or other restricted substitutes remain in use.

(3) Updated responses on all information requested in the initial status notification under WAC 173-443-040.

NEW SECTION

WAC 173-443-060 Restriction modification. The product class restriction for new and existing vending machines is modified to January 1, 2022, based on ecology's determination, in accordance with RCW 70.235.--- (3)(a) (section 3 (3)(a), chapter 284, Laws of 2019).

NEW SECTION

WAC 173-443-070 Severability. If any provision of the rule or its application to any covered party, person, or circumstance is held invalid, the remainder of the rule or application of the provision to other covered parties, persons, or circumstances is not affected.

WSR 20-07-079

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 16, 2020, 1:22 p.m., effective March 16, 2020, 1:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-310-0350 WorkFirst—Other exemptions from mandatory participation. These amendments are necessary to temporarily exempt temporary assistance for needy families (TANF) recipients from mandatory WorkFirst participation as a result of the public health crisis created by the COVID-19 virus (commonly referred to as the "Coronavirus").

Citation of Rules Affected by this Order: Amending WAC 388-310-0350.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.010.

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: In order to protect public health, safety, and welfare there is an emergent need to temporarily exempt TANF recipients from mandatory WorkFirst participation due to the public health crisis created by the COVID-19 virus (commonly referred to as the "Coronavirus"), and associated state of emergency in all Washington counties as proclaimed by Governor Inslee's "Proclamation by the Governor 20-05."

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

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

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

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

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

Date Adopted: March 16, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-24-056, filed 11/24/15, effective 1/1/16)

WAC 388-310-0350 WorkFirst—Other exemptions from mandatory participation. (1) When am I exempt from mandatory participation?

Except as provided in subsection (4) of this section, you are exempt from mandatory participation if you are:

(a) A caretaker relative as defined by WAC 388-454-0010, included in the assistance unit and:

(i) You are fifty-five years of age or older and caring for a child and you are not the child's parent; and

(ii) Your age is verified by any reliable documentation (such as a birth certificate or a driver's license).

(b) An adult with a severe and chronic disability as defined below:

(i) You have been assessed by a DSHS SSI facilitator as likely to be approved for SSI or other benefits and are required to apply for SSI or another type of federal disability benefit (such as railroad retirement or Social Security disability) in your individual responsibility plan. Your SSI application status may be verified through the SSI facilitator and/or state data exchange; or

(ii) Your disability is a severe and chronic mental, physical, emotional, or cognitive impairment that prevents you from participating in work activities for more than ten hours a week and is expected to last at least twelve months. Your disability and ability to participate must be verified by documentation from the division of developmental disabilities (DDD), division of vocational rehabilitation (DVR), home

and community services division (HCS), division of mental health (MHD), behavioral health organization (BHO), and/or regional service area (RSA), or evidence from one of the medical or mental health professionals listed in subsection (2) of this section.

(c) Required in the home to care for a child with special needs when:

(i) The child has a special medical, developmental, mental, or behavioral condition; and

(ii) The child is determined by a public health nurse, school professional, one of the medical or mental health professionals listed in subsection (2) of this section, HCS, MHD, BHO, and/or an RSA to require specialized care or treatment that prevents you from participating in work activities for more than ten hours per week.

(d) Required to be in the home to care for another adult with disabilities when:

(i) The adult with disabilities cannot be left alone for significant periods of time; and

(ii) No adult other than yourself is available and able to provide the care; and

(iii) The adult with the disability is related to you; and

(iv) You are unable to participate in work activities for more than ten hours per week because you are required to be in the home to provide care; and

(v) The disability and your need to care for your disabled adult relative is verified by documentation from DDD, DVR, HCS, MHD, BHO and/or an RSA, or evidence from one of the medical or mental health professionals listed in subsection (2) of this section.

(e) A resident of Washington state during a declared state of emergency related to COVID-19.

(2) What types of medical or mental health professionals can provide medical evidence when I have a disability?

We accept medical evidence from the following sources when considering disability:

(a) For a physical impairment:

(i) A physician, which includes:

(A) Medical doctor (M.D.); and

(B) Doctor of osteopathy (D.O.);

(ii) An advanced registered nurse practitioner (ARNP) for physical impairments;

(iii) A physician's assistant (P.A.);

(iv) A doctor of optometry (O.D.) for visual acuity impairments; or

(v) Doctor of podiatry (D.P.) for foot disorders;

(b) For a mental impairment:

(i) A psychiatrist;

(ii) A psychologist;

(iii) An ARNP certified in psychiatric nursing;

(iv) A mental health professional provided the person's training and qualifications at a minimum include a master's degree; or

(v) A physician who is currently treating you for a mental impairment.

(c) We do not accept medical evidence from the medical professionals listed in subsections (2)(a) and (b), unless they are licensed in Washington state or the state where the examination was performed.

(3) Who reviews and approves an exemption from participation?

(a) If it appears that you may qualify for an exemption or you ask for an exemption, your case manager or social worker will review the information and we may use the case staffing process to determine whether the exemption will be approved. Case staffing is a process to bring together a team of multidisciplinary experts including relevant professionals and the client to identify participant issues, review case history and information, and recommend solutions.

(b) If additional medical or other documentation is needed to determine if you are exempt, your IRP will allow between thirty days and up to ninety if approved to gather the necessary documentation.

(c) Information needed to verify your exemption should meet the standards for verification described in WAC 388-490-0005. If you need help gathering information to verify your exemption, you can ask us for help. If you have been identified as needing NSA services, under chapter 388-472 WAC, your accommodation plan should include information on how we will assist you with getting the verification needed.

(d) After a case staffing, we will send you a notice that tells you whether your exemption was approved, how to request a fair hearing if you disagree with the decision, and any changes to your IRP that were made as a result of the case staffing.

(4) If I am an adult who is exempt due to my severe and chronic disability, can I still be required to participate in the WorkFirst program?

When you are exempt due to your severe and chronic disability, you may be required to:

(a) Pursue SSI or another type of federal disability benefit; and/or

(b) Participate in available treatment that is recommended by your treating medical or mental health provider or by a chemical dependency professional.

(5) Can I participate in WorkFirst while I am exempt?

(a) You may choose to fully participate in WorkFirst while you are exempt.

(b) Your WorkFirst case manager may refer you to other service providers who may help you improve your skills and move into employment.

(c) If you decide later to stop participating, and you still qualify for an exemption, you will be put back into exempt status with no financial penalty.

(6) Does an exemption from participation affect my sixty-month time limit for receiving TANF/SFA benefits?

Even if exempt from participation, each month you receive a TANF/SFA grant counts toward your sixty-month limit as described in WAC 388-484-0005.

(7) How long will my exemption last?

Unless you are an older caretaker relative, your exemption will be reviewed at least every twelve months to make sure that you still meet the criteria for an exemption. Your exemption will continue as long as you continue to meet the criteria for an exemption.

(8) What happens when I am no longer exempt?

If you are no longer exempt, then:

(a) You will become a mandatory participant under WAC 388-310-0400; and

(b) If you have received sixty or more months of TANF/SFA, your case will be reviewed for an extension. (See WAC 388-484-0006 for a description of TANF/SFA time limit extensions.)

(9) For time-limited extensions, see WAC 388-484-0006.

WSR 20-07-082**EMERGENCY RULES****HEALTH CARE AUTHORITY**

[Filed March 16, 2020, 2:10 p.m., effective March 16, 2020, 2:10 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is revising this section to allow for payment of office visits for clients under the alien emergency medical (AEM) program when the visit is specifically for the assessment and treatment of the COVID-19 virus.

Citation of Rules Affected by this Order: Amending WAC 182-507-0115.

Statutory Authority for Adoption: RCW 41.05.021(1)(l), 41.05.160.

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

Reasons for this Finding: This emergency rule making is in response to the Governor's Proclamation 20-05 declaring a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19). This emergency rule making is necessary to preserve the public health, safety, and general welfare by allowing payment for the office visit for an AEM client for the assessment and treatment of the COVID-19 virus.

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

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

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

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

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

Date Adopted: March 16, 2020.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-24-038, filed 11/29/12, effective 12/30/12)

WAC 182-507-0115 Alien emergency medical program (AEM). (1) A person nineteen years of age or older who is not pregnant and meets the eligibility criteria under WAC 182-507-0110 is eligible for the alien emergency medical program's scope of covered services described in this section if the person meets ~~((a) and (b) or (c))~~ the requirements of (a) of this subsection, as well as the requirements of either (b), (c), or (d) of this subsection:

(a) The medicaid agency determines that the primary condition requiring treatment ~~((meets the definition of))~~ is an emergency medical condition as defined in WAC 182-500-0030, and the condition is confirmed through review of clinical records; and

(b) The person's qualifying emergency medical condition is treated in one of the following hospital settings:

(i) Inpatient;

(ii) Outpatient surgery;

(iii) Emergency room services, which must include an evaluation and management (E&M) visit by a physician; or

(c) Involuntary Treatment Act (ITA) and voluntary inpatient admissions to a hospital psychiatric setting that are authorized by the agency's inpatient mental health designee (see subsection (5) of this section); or

(d) For the assessment and treatment of the COVID-19 virus, the agency covers one physician visit provided in any outpatient setting, including the office or clinic setting, or via telemedicine, online digital or telephonic services to assess/evaluate and test, if clinically indicated, as follows:

(i) If the test is positive, in addition to the services described in (b) of this subsection and subsection (2)(b) of this section, any medically necessary services to treat, including:

(A) Follow-up office visits;

(B) Medications, prior authorization requirements may apply;

(C) Respiratory services and supplies; and

(D) Medical supplies, prior authorization requirements may apply.

(ii) If a test is negative, any treatment described in (d)(i)(A) through (B) of this subsection, as a precautionary measure for an anticipated positive test result.

(e) The coverage described in (d) of this subsection is in effect only during the time period, as determined by the agency in its sole discretion, that a public health emergency related to COVID-19 exists.

(2) If a person meets the criteria in subsection (1) of this section, the agency will cover and pay for all related medically necessary health care services and professional services provided:

(a) By physicians in their office or in a clinic setting immediately prior to the transfer to the hospital, resulting in a direct admission to the hospital; and

(b) During the specific emergency room visit, outpatient surgery or inpatient admission. These services include, but are not limited to:

(i) Medications;

(ii) Laboratory, X-ray, and other diagnostics and the professional interpretations;

(iii) Medical equipment and supplies;

(iv) Anesthesia, surgical, and recovery services;

(v) Physician consultation, treatment, surgery, or evaluation services;

(vi) Therapy services;

(vii) Emergency medical transportation; and

(viii) Nonemergency ambulance transportation to transfer the person from a hospital to a long term acute care (LTAC) or an inpatient physical medicine and rehabilitation (PM&R) unit, if that admission is prior authorized by the agency or its designee as described in subsection (3) of this section.

(3) The agency will cover admissions to an LTAC facility or an inpatient PM&R unit if:

(a) The original admission to the hospital meets the criteria as described in subsection (1) of this section;

(b) The person is transferred directly to this facility from the hospital; and

(c) The admission is prior authorized according to LTAC and PM&R program rules (see WAC 182-550-2590 for LTAC and WAC 182-550-2561 for PM&R).

(4) The agency does not cover any services, regardless of setting, once the person is discharged from the hospital after being treated for a qualifying emergency medical condition authorized by the agency or its designee under this program. Exceptions:

(a) For admissions to treat COVID-19 or complications thereof, the agency will cover up to two postdischarge physician follow-up visits, regardless of how the visits are conducted or where they are conducted.

(b) Pharmacy services, drugs, devices, and drug-related supplies listed in WAC 182-530-2000, prescribed on the same day and associated with the qualifying visit or service (as described in subsection (1) of this section) will be covered for a one-time fill and retrospectively reimbursed according to pharmacy program rules.

(5) Medical necessity of inpatient psychiatric care in the hospital setting must be determined, and any admission must be authorized by the agency's inpatient mental health designee according to the requirements in WAC 182-550-2600.

(6) There is no precertification or prior authorization for eligibility under this program. Eligibility for the AEM program does not have to be established before an individual begins receiving emergency treatment.

(7) Under this program, certification is only valid for the period of time the person is receiving services under the criteria described in subsection (1) of this section. The exception for pharmacy services is also applicable as described in subsection (4) of this section.

(a) For inpatient care, the certification is only for the period of time the person is in the hospital, LTAC, or PM&R facility - The admission date through the discharge date. Upon discharge the person is no longer eligible for coverage.

(b) For an outpatient surgery or emergency room service the certification is only for the date of service. If the person is in the hospital overnight, the certification will be the admission date through the discharge date. Upon release from the hospital, the person is no longer eligible for coverage.

(8) Under this program, any visit or service not meeting the criteria described in subsection (1) of this section is con-

sidered not within the scope of service categories as described in WAC 182-501-0060. This includes, but is not limited to:

(a) Hospital services, care, surgeries, or inpatient admissions to treat any condition which is not considered by the agency to be a qualifying emergency medical condition, including but not limited to:

- (i) Laboratory X-ray, or other diagnostic procedures;
- (ii) Physical, occupational, speech therapy, or audiology services;
- (iii) Hospital clinic services; or
- (iv) Emergency room visits, surgery, or hospital admissions.

(b) Any services provided during a hospital admission or visit (meeting the criteria described in subsection (1) of this section), which are not related to the treatment of the qualifying emergency medical condition;

(c) Organ transplants, including preevaluations, post operative care, and anti-rejection medication;

(d) Services provided outside the hospital settings described in subsection (1) of this section including, but not limited to:

- (i) Office or clinic-based services rendered by a physician, an ARNP, or any other licensed practitioner;
- (ii) Prenatal care, except labor and delivery;
- (iii) Laboratory, radiology, and any other diagnostic testing;
- (iv) School-based services;
- (v) Personal care services;
- (vi) Physical, respiratory, occupational, and speech therapy services;
- (vii) Waiver services;
- (viii) Nursing facility services;
- (ix) Home health services;
- (x) Hospice services;
- (xi) Vision services;
- (xii) Hearing services;
- (xiii) Dental services;
- (xiv) Durable and nondurable medical supplies;
- (xv) Nonemergency medical transportation;
- (xvi) Interpreter services; and
- (xvii) Pharmacy services, except as described in subsection (4) of this section.

(9) The services listed in subsection (8) of this section are not within the scope of service categories for this program and therefore the exception to rule process is not available.

(10) Providers must not bill the agency for visits or services that do not meet the qualifying criteria described in this section. The agency will identify and recover payment for claims paid in error.

WSR 20-07-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 20-47—Filed March 16, 2020, 3:07 p.m., effective March 18, 2020, 8:00 a.m.]

Effective Date of Rule: March 18, 2020, 8:00 a.m.

Purpose: Amends coastal commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000Y and 220-340-45000R; 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 rule is needed to open the commercial crab fishery in the Makah Special Management Area and a portion of the Quinault Special Management Area. Pot limits will reduce the crowding effect in these restricted areas and language improves enforcement of pot limits. Provisions in state/tribal management agreements will be achieved by the opening dates contained herein. The special management areas are described in accordance with state/tribal management agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 16, 2020.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000Z Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420, effective 8:00 A.M., March 18, 2020 until further notice:

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

(2) It is unlawful for a vessel to use more than 200 pots in the Makah SMA, effective immediately until 8:00 A.M. March 22, 2020. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Robert Morgan at 360-249-1229;

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

(3) 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, effective immediately until 8:00 a.m. April 17, 2020. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

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

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

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

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

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

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

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

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

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

(3) The Quileute special management area (SMA) is closed to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

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

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

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

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

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

(a) Northeast Corner (Tatoosh Island)

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

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

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

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

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

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:00 a.m. March 18, 2020:

WAC 220-340-42000Y Commercial crab fishery—Unlawful acts. (20-28)

WAC 220-340-45000R Commercial crab fishery—Seasons and areas—Coastal. (20-28)

WSR 20-07-086

EMERGENCY RULES

PROFESSIONAL EDUCATOR

STANDARDS BOARD

[Filed March 16, 2020, 3:42 p.m., effective March 16, 2020, 3:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This WAC amendment would extend the validity period of educator certificates expiring June 30, 2020, for one additional year to June 30, 2021.

Citation of Rules Affected by this Order: New WAC 181-77A-118.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Reasons for this Finding: Schools across the state have now closed in response to the COVID-19 outbreak. With the closing of schools, continuing education options for educators have also been reduced or eliminated. Continuing education is often offered in group settings, and many of those

events have been cancelled. It would be very challenging for educators to accrue enough continuing education hours between now and June in order to renew their certificates.

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

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

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

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

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

Date Adopted: March 15, 2020.

Maren Johnson
Rules Coordinator

NEW SECTION

WAC 181-79A-118 Expiration and lapse dates of certificates. (1) Certificates scheduled to expire June 30, 2020, under WAC 181-79A-117, or scheduled to lapse June 30, 2020, under WAC 181-85-100, excluding residency certificates that are subject to reissuance, are scheduled to expire or lapse June 30, 2021.

(2) Certificates scheduled to expire June 30, 2020, under WAC 181-79A-117, or scheduled to lapse June 30, 2020, under WAC 181-85-100, may have already been renewed. For these renewed certificates, the expiration or lapse date will be calculated as if the certificate expiring June 30, 2020, had an expiration or lapse date of June 30, 2021.

(3) Applications for renewal of certificates scheduled to expire June 30, 2021, which were previously scheduled to expire June 30, 2020, may be submitted at any point prior to the June 30, 2021, expiration date.

(4) Limited certificates under WAC 181-79A-231, 181-77-014, and 181-77-081 expire as described in those sections.

(5) Permits under WAC 181-02-001, 181-79A-128, and 181-79A-224 expire as described in those sections. Permits for candidates eligible under those sections may be reissued once for one additional year.

WSR 20-07-106
EMERGENCY RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed March 17, 2020, 3:35 p.m., effective March 17, 2020, 3:35 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This new section of WAC would allow for emergency certificates for teacher preparation program candidates who have not completed assessment requirements,

but have completed all other program completion requirements. These emergency certificates would be valid for one year.

Citation of Rules Affected by this Order: New WAC 181-79A-228.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Reasons for this Finding: Testing centers have now closed for an extended period of time due to health concerns. If testing centers are closed, the basic skills and content knowledge assessments are not available. In addition, schools have closed for an extended period of time. Candidates are challenged to complete the performance assessment if schools are not in session.

This new section of WAC would allow emergency certificates for candidates who have not completed assessment requirements. Emergency certificates allow candidates to serve in their educator role while they complete the requirements.

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

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

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

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

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

Date Adopted: March 17, 2020.

Maren Johnson
Rules Coordinator

NEW SECTION

WAC 181-79A-228 Emergency teacher certificates. Emergency teacher certificates, valid for one year, may be issued by the superintendent of public instruction under the following conditions:

(1) A teacher preparation program approved by the professional educator standards board has recommended the candidate as having met all requirements for program completion with the exception of one or more of the following:

(a) The performance assessment as described in WAC 181-78A-232 and 181-78A-300;

(b) The content knowledge assessment as described in WAC 181-78A-300 (2)(b); and

(c) The basic skills assessment as described in WAC 181-78A-232 and 181-78A-300.

(2) During the validity period of the certificate, preparation program providers are required to inform, advise, and support applicants on assessment requirements as described in WAC 181-78A-231(3).

(3) One additional one-year emergency certificate may be issued upon request by the preparation program provider.

WSR 20-07-107

EMERGENCY RULES

HORSE RACING COMMISSION

[Filed March 18, 2020, 7:55 a.m., effective March 18, 2020, 7:55 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Licensed persons have access to the stable area at a licensed racetrack and by rule may sign in guests for access. With the current pandemic surrounding the COVID-19 virus, it is for the industry and participants health and safety that this access be restricted to prevent the possible spread of the virus. The amendment to this section will restrict access to the stable area only to those with a current Washington horse racing commission license, with the exception of those delivering supplies or transporting horses.

Citation of Rules Affected by this Order: Amending WAC 260-20-040.

Statutory Authority for Adoption: Chapter 67.16 RCW.

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

Reasons for this Finding: Restricting access to the facility immediately is a measure to protect those individuals that are required to be in the stable area for the care of the horses.

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

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

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

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

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

Date Adopted: March 18, 2020.

Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-11-115, filed 5/18/07, effective 6/18/07)

WAC 260-20-040 Admission to grounds—Restricted areas. (1) A person may only be permitted to enter the restricted areas of the racing association grounds under the following conditions:

(a) The person possesses a license or credentials issued by the commission.

(b) The person possesses a pass issued by the association.

~~(c) ((The person has been signed in by a person licensed by the commission.~~

~~(2) The restricted areas of a racing association will include, but not be limited to the stable area, and the jockey's quarters.~~

~~(3) Children may be granted access to the stable areas as long as they are in the company of a parent or guardian who has a properly issued license, credential, or pass.~~

~~(4) Persons escorted by a licensee must remain in the company of the licensee who signed them in.~~

~~(5)) The person is delivering supplies or transporting horses to the facility.~~

(2) Unlicensed persons granted access must be logged in by the racing association for commission review.

(3) At a Class C racing association, the stable areas will not be considered a restricted area, except that the racing association may limit access to this area.

~~((6))~~ (4) Passes must be displayed while in a restricted area.

WSR 20-07-120

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed March 18, 2020, 11:05 a.m., effective March 18, 2020, 11:05 a.m.]

Effective Date of Rule: Immediately.

Purpose: The rule change addresses reemployment services impacted by WorkSource office closures due to COVID-19. The amended rule excuses claimants from participating in reemployment services at WorkSource locations when those locations are closed due to COVID-19 and there are no other alternatives.

Citation of Rules Affected by this Order: Amending WAC 192-140-090.

Statutory Authority for Adoption: RCW 50.12.040, 50.20.010 (1)(e).

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: In Proclamation 20-05, Governor Inslee proclaimed a State of Emergency in Washington regarding COVID-19. The proclamation directs agencies and departments to support the department of health and local officials in alleviating the impacts to people, property, and infrastructure across the state.

The federal Reemployment Services and Eligibility Assessment Program provides certain requirements for claimants in order to remain eligible for unemployment benefits. The rule change adds an exemption to reemployment scheduling for situations where the appointed WorkSource office is closed due to COVID-19.

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

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

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

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

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

Date Adopted: March 18, 2020.

Dan Zeitlin
Employment Security Policy Director

AMENDATORY SECTION (Amending WSR 19-12-091, filed 6/4/19, effective 7/22/19)

WAC 192-140-090 What happens if I do not schedule or report for reemployment services as provided in RCW 50.20.010 (1)(e)? (1) Written directives.

(a) The commissioner may direct you in writing to schedule a time to report in person for reemployment services. The written directive will contain a deadline by which you must schedule and participate in reemployment services.

(b) If you fail to schedule a time to participate in reemployment services by the deadline, you will be ineligible to receive benefits for the week containing the date of the deadline, unless you show justifiable cause.

(c) If you fail to participate in reemployment services at the time you scheduled, you will be ineligible to receive benefits for the week containing the time you scheduled, unless you show justifiable cause.

(d) The department may verify the reasons you failed to schedule or participate in reemployment services. In all such cases, your ability to work or availability for work may be questioned.

(2) **Exceptions.** You will not be required to participate in reemployment services if you:

(a) Are a member of a full referral union and are eligible for dispatch and referral according to union rules;

(b) Are attached to an employer as provided in WAC 192-180-005;

(c) Are participating in a training program approved by the commissioner; ~~((f))~~

(d) Are not able to attend due to the closure of the WorkSource office and the department cannot accommodate an alternative method to deliver the reemployment services; or

(e) Within the previous year have completed, or are currently scheduled for or participating in, similar services.

(3) **Minimum services.** The services will consist of one or more sessions which include, but are not limited to:

(a) Local labor market information;

(b) Available reemployment and training services;

(c) Successful job search attitudes;

(d) Self-assessment of job skills and interests;

(e) Job interview techniques;

(f) The development of a resume or fact sheet; and

(g) The development of a plan for reemployment.

(4) **Justifiable cause.** Justifiable cause for failure to schedule or participate in reemployment services as directed will include factors specific to you which would cause a reasonably prudent person in similar circumstances to fail to schedule or participate in reemployment services. Justifiable cause includes, but is not limited to:

(a) Your illness or disability or that of a member of your immediate family;

(b) Conflicting employment or your presence at a job interview scheduled with an employer; or

(c) Severe weather conditions.