

**WSR 20-08-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed March 18, 2020, 2:53 p.m., effective March 18, 2020, 2:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend WAC 110-15-0280 to align with the department of children, youth, and families' (DCYF) emergency administrative hearing rules, chapter 110-03 WAC.

Citation of Rules Affected by this Order: Amending WAC 110-15-0280.

Statutory Authority for Adoption: RCW 43.216.905, 43.216.906.

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: DCYF has conflicting WACs regarding an administrative appeal process that impacts the general welfare. Observing the time requirements for notice and comment would be contrary to the public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 18, 2020.

Brenda Villarreal  
Rules Coordinator

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

**WAC 110-15-0280 Right to request an administrative hearing.** (1) WCCC consumers have a right to request ~~((a hearing under chapter 388-02 WAC))~~ administrative hearings on any action affecting WCCC benefits.

(2) Child care providers may request administrative hearings ~~((under chapter 388-02 WAC))~~ only for WCCC overpayments. A provider's burden of proof is a preponderance of the evidence.

(3) To request a hearing, a consumer or provider:

(a) Contacts the ~~((DSHS))~~ DCYF office which sent them the notice; or

(b) Writes to the office of administrative hearings, P.O. Box 42489, Olympia, WA 98504-2489; and

(c) Makes the request for a hearing within:

(i) Ninety days of the date a decision is received for consumers; or

(ii) Twenty-eight days of the date a decision is received for providers.

(4) The office of administrative hearings administrative law judge enters initial or final orders as provided in ~~((WAC 388-02-0217))~~ chapter 110-03 WAC. Initial orders may be appealed to a ~~((DSHS))~~ DCYF review judge under chapter ~~((388-02))~~ 110-03 WAC.

(5) To request a hearing under the seasonal child care program, see WAC ~~((170-290-3860 and 170-290-3865))~~ 110-15-3860 and 110-15-3865.

**WSR 20-08-007**  
**EMERGENCY RULES**  
**STATE BOARD OF HEALTH**

[Filed March 19, 2020, 3:40 p.m., effective March 20, 2020]

Effective Date of Rule: March 20, 2020.

Purpose: WAC 246-80-021 Prohibition—Vitamin E acetate, the Washington state board of health has adopted an emergency rule to continue the ban on the sale of vapor products containing vitamin E acetate. This applies to the sale, offer for sale, or possession with intent to sell or offer for sale vapor products containing vitamin E acetate at any location or by means including by telephone or other method of voice transmission, the mail or any other delivery service or the internet or other online service.

Citation of Rules Affected by this Order: New WAC 246-80-021.

Statutory Authority for Adoption: RCW 43.20.050 (2)

(f).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The standards in this emergency rule have not changed from the previous emergency rule.

In July 2019 the United States Centers for Disease Control and Prevention (CDC), United States Food and Drug Administration, state and local health jurisdictions and other clinical and public health partners began investigation [of] outbreaks of lung injury associated with e-cigarette product use, or vaping. In September 2019, the CDC activated its Emergency Operations Center to aid in the investigation of the multi-state outbreak. As of February 18, 2020, CDC reported a total of two thousand eight hundred seven cases of hospitalized e-cigarette, or vaping, product use associated lung injury (EVALI) cases, and sixty-eight deaths in twenty-nine states and the District of Columbia. Twenty-seven cases of lung injury, including two deaths have been reported in Washington state.

As part of the investigation into the multistate outbreak of lung disease associated with the use of vapor products, a recent study cited by the CDC conducted laboratory tests of fifty-one samples of fluid collected from the lungs of patients with vaping-associated lung disease from sixteen states.

Forty-nine samples contained vitamin E acetate, providing direct evidence of vitamin E acetate at the primary site of the injury in the lungs. Vitamin E acetate is a chemical that is used as an additive or thickening ingredient in vapor products. THC was identified in forty-seven of fifty samples and nicotine was identified in thirty of forty-seven samples. None of a range of other potential chemicals of concern was detected in the samples, but evidence is not yet sufficient to rule out the contribution of other chemicals, substances or product sources to the disease. The CDC has identified vitamin E acetate as a chemical of concern and recommends that vitamin E acetate not be added to any vapor products.

This legislative session, the governor submitted request legislation (SB 6254) aimed at increasing regulation of vapor products in Washington. The bill included a ban of vitamin E acetate, however the legislature failed to pass SB 6254. Due to the clear association of vitamin E acetate with EVALI and absent legislative action to ban vitamin E acetate the board has determined that continuing a ban is necessary to protect the public health, safety and welfare.

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

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

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

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

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

Date Adopted: March 19, 2020.

Michelle A. Davis  
Executive Director

#### NEW SECTION

##### **WAC 246-80-021 Prohibition—Vitamin E acetate.**

(1) Vitamin E acetate is a chemical that is used as an additive or thickening ingredient in vapor products. As part of the investigation into the multistate outbreak of lung disease associated with the use of vapor products, the Centers for Disease Control (CDC) conducted laboratory tests of twenty-nine samples of fluid collected from the lungs of patients with vaping-associated lung disease from ten states. All of the samples contained vitamin E acetate, providing direct evidence of vitamin E acetate at the primary site of injury in the lungs. The CDC did not determine that vitamin E acetate was present in only THC vapor products or only non-THC vapor products. THC was identified in eighty-two percent of the samples, and nicotine was identified in sixty-two percent of the samples. Subsequently, tests of fifty-one samples of fluid collected from the lungs of patients with vaping-associated lung disease in sixteen states identified vitamin E acetate in forty-eight of the samples. THC was identified in forty-seven

of fifty samples and nicotine was identified in thirty of forty-seven samples. Evidence is not yet sufficient to rule out the contribution of other chemicals, substances, or product sources to the disease. The CDC has identified vitamin E acetate as a chemical of concern and stated that it is important that vitamin E acetate not be added to any vapor products. Adoption of a rule prohibiting the sale of vapor products containing vitamin E acetate is necessary for the preservation of the public health, safety, and general welfare.

(2) No person including, but not limited to, a person licensed under chapter 69.50 or 70.345 RCW, may sell, offer for sale, or possess with intent to sell, or offer for sale vapor products containing vitamin E acetate. The foregoing prohibition applies to the sale, offer for sale, or possession with intent to sell or offer for sale vapor products containing vitamin E acetate at any location or by any means in this state including, but not limited to, by means of a telephonic or other method of voice transmission, the mail or any other delivery service, or the internet or other online service.

#### **WSR 20-08-008 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 20-49—Filed March 19, 2020, 5:19 p.m., effective March 19, 2020, 5:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000S.

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

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

Reasons for this Finding: This rule is necessary to close recreational razor clam seasons on the coast. Pacific County health officials advise this is necessary to control and prevent the spread of a dangerous, contagious coronavirus disease 2019 within the jurisdiction of the Pacific County health officer; to maintain health over the territory of this jurisdiction; and to promote the public health. Because razor clam beaches cross county lines, maintaining an orderly fishery is not possible, so harvest on all beaches is closed. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 19, 2020.

Kelly Susewind  
Director

#### REPEALER

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

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

**WSR 20-08-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed March 20, 2020, 1:47 p.m., effective March 20, 2020, 1:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend existing rules affecting specific programs as a result of the health crisis created by the coronavirus.

Citation of Rules Affected by this Order: Amending WAC 388-96-107.

Statutory Authority for Adoption: RCW 74.46.800(1).

Other Authority: Governor Proclamation 20-05.

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: We have received feedback from stakeholders that the current emergency state, in addition to staff members being sick or preventatively quarantined, may interfere with the ability to complete cost reports per the regular deadlines. This change will allow additional flexibility for requests for extensions for the completion of cost reports.

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 17, 2020.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-22-037, filed 10/24/17, effective 11/24/17)

**WAC 388-96-107 Requests for extensions.** (1) A contractor may request in writing an extension for submitting cost reports. Contractor requests must:

(a) Be addressed to the manager, nursing facility rates program;

(b) State the circumstances prohibiting compliance with the report due date; and

(c) Be received by the department (~~(at least ten days prior to the due date of the report))~~ by 5:00 p.m. on March 31st, 2020.

(2) The department may grant (~~(two))~~ extensions of up to thirty days each, only if the circumstances, stated clearly, indicate the due date cannot be met and the following conditions are present:

(a) The circumstances were not foreseeable by the provider; and

(b) The circumstances were not avoidable by advance planning.

**WSR 20-08-020**

**EMERGENCY RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 20, 2020, 1:51 p.m., effective March 20, 2020, 1:51 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 applications for standby (WAC 192-110-015) and allows the requirement to register for and search for work to be met by staying in contact with the employer; requires the claimant to be available for suitable work; allows for standby for up to twelve weeks; allows the commissioner to grant more than twelve weeks of standby in cases related to COVID-19 or the governor's emergency proclamation; and expands standby eligibility to full-time, part-time, and less than full-time workers.

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 20, 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve weeks is necessary. Exceptions can also be made due to a COVID-19 infection at the employer's place of business or an emergency proclamation by the governor 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))~~ twelve weeks, which includes the week of the job offer and up to ~~((two))~~ twelve 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))~~ twelve weeks of standby; and

(f) After ~~((eight))~~ twelve 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 20-08-022

### EMERGENCY RULES

#### STUDENT ACHIEVEMENT COUNCIL

[Filed March 20, 2020, 3:07 p.m., effective March 20, 2020, 3:07 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The Washington student achievement council is adopting an emergency rule to carry out the primary purpose of the state work study (SWS) program, chapter 28B.12 RCW, during the period of a declared state of emergency.

Citation of Rules Affected by this Order: New WAC 250-40-080.

Statutory Authority for Adoption: RCW 28B.12.060, 28B.76.120, and 28B.77.050.

Other Authority: Proclamation by the Governor 20-12, March 13, 2020.

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

Reasons for this Finding: On February 29, 2020, the governor issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington.

On March 13, 2020, the governor issued Proclamation 20-12 which extends directives of the original and subsequent proclamations to help preserve and maintain life, health, property or the public peace, and prohibits many activities in all counties of Washington state related to the operation of all public and private universities, colleges, technical schools, apprenticeship and similar programs, including prohibiting in-person classroom instruction and lectures related to all educational and apprenticeship related programs. The proclamation also states, "Nothing in this Proclamation is intended to prevent institutions from taking appropriate steps to preserve accreditation, student financial aid or student visa status."

The purpose of the SWS program is to provide financial assistance to needy students, including needy students from middle-income families, attending eligible post-secondary institutions in the state of Washington by stimulating and promoting their employment (RCW 28B.12.020). SWS is an integral part of state student financial aid with the primary

purpose of assisting students with financial need to bear the full cost of their post-secondary education.

For student employees receiving financial aid through SWS who are unable to perform regularly scheduled work hours or tasks as a result of an employer's COVID-19 suspension or significant alteration of normal business operations, SWS will continue to reimburse employers for the applicable program share of eligible hours through the remainder of the 2019-20 academic year as long as the SWS employer continues to pay its share of gross student wages for those hours. To receive reimbursement under these conditions, there is no change to the operational process for employers. Hours eligible for SWS reimbursement under this option include, but are not limited to, performing typical job tasks, remote work, including project-based assignments, or not working because of COVID-19 limitations.

Alternatively, or in addition to continued work, institutions may also utilize their remaining 2019-20 SWS allocations to fulfill the financial aid commitment made to current SWS earners by reclassifying their remaining 2019-20 SWS awards as general financial aid, up to the maximum of the student's remaining SWS award. Eligible students must have documented SWS earnings in the same academic year and continue to meet all SWS eligibility requirements throughout the period of the 2019-20 award.

This emergency rule authorizes institutions to provide eligible students with general need based financial aid awards.

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

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

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

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

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

Date Adopted: March 20, 2020.

Michael P. Meotti  
Executive Director

#### NEW SECTION

**WAC 250-40-080 Declared state of emergency.** When the governor or state legislature has declared a state of emergency and students have difficulty staying employed in their state work study position, the office may allow an eligible institution of postsecondary education to request that its work study allocations be used to provide eligible students general need based financial aid awards in furtherance of the primary purpose of the State Work Study program (RCW 28B.12.-020). Student recipients must have documented program earnings in same academic year and continue to meet all eli-

gibility requirements throughout the period of the emergency.

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

**WSR 20-08-025**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**

[Filed March 20, 2020, 5:24 p.m., effective March 20, 2020, 5:24 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is revising this section to temporarily eliminate the requirement for date and signature from the medicaid client or the client's designee upon delivery of medical equipment and supplies.

Citation of Rules Affected by this Order: Amending WAC 182-543-2200.

Statutory Authority for Adoption: RCW 41.05.021, 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: In response to the current public health emergency surrounding the outbreak of the coronavirus disease 2019 (COVID-19) along with the governor of Washington's emergency proclamations related to COVID-19, this rule making is necessary to immediately allow delivery of medical equipment and supplies without the requirement of a date and signature from the client or the client's designee in order to avoid contact between the client and delivery person.

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 20, 2020.

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

**WAC 182-543-2200 Proof of delivery.** (1) When a provider delivers an item directly to the client or the client's authorized representative, the provider must furnish the proof of delivery when the medicaid agency requests that information. All of the following apply:

(a) The agency requires a delivery slip as proof of delivery. The proof of delivery slip must:

(i) ~~((Be signed and dated by the client or the client's authorized representative (the date of signature must be the date the item was received by the client);~~

~~((ii)))~~ Include the client's name and a detailed description of the item(s) delivered, including the quantity and brand name; and

~~((iii)))~~ (ii) For medical equipment that may require future repairs, include the serial number.

(b) When the provider or supplier submits a claim for payment to the agency, the date of service on the claim must be one of the following:

(i) For a one-time delivery, the date the item was received by the client or the client's authorized representative; or

(ii) For nondurable medical supplies for which the agency has established a monthly maximum, on or after the date the item was received by the client or the client's authorized representative.

(2) When a provider uses a delivery/shipping service to deliver items which are not fitted to the client, the provider must furnish proof of delivery that the client received the equipment and/or supply, when the agency requests that information.

(a) If the provider uses a delivery/shipping service, the tracking slip is the proof of delivery. The tracking slip must include:

(i) The client's name or a reference to the client's package or packages;

(ii) The delivery service package identification number; and

(iii) The delivery address.

(b) If the provider/supplier does the delivering, the delivery slip is the proof of delivery. The delivery slip must include:

(i) The client's name;

(ii) The shipping service package identification number;

(iii) The quantity, detailed description(s), and brand name or names of the items being shipped; and

(iv) For medical equipment that may require future repairs, the serial number.

(c) When billing the agency, use:

(i) The shipping date as the date of service on the claim if the provider uses a delivery/shipping service; or

(ii) The actual date of delivery as the date of service on the claim if the provider/supplier does the delivery.

(3) A provider must not use a delivery/shipping service to deliver items which must be fitted to the client.

(4) Providers must obtain prior authorization when required before delivering the item to the client. The item must be delivered to the client before the provider bills the agency.

(5) The agency does not pay for medical equipment and related items furnished to the agency's clients when:

(a) The medical professional who provides medical justification to the agency for the item provided to the client is an employee of, has a contract with, or has any financial relationship with the provider of the item; or

(b) The medical professional who performs a client evaluation is an employee of, has a contract with, or has any financial relationship with a provider of medical equipment and related items.

### WSR 20-08-026

#### EMERGENCY RULES DEPARTMENT OF

#### CHILDREN, YOUTH, AND FAMILIES

[Filed March 23, 2020, 8:51 a.m., effective March 23, 2020, 8:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Allow an eligible provider to claim working connections child care payment based on enrollment, rather than attendance, for the period March 16 through April 30, 2020.

Citation of Rules Affected by this Order: Amending WAC 110-15-0034.

Statutory Authority for Adoption: RCW 43.216.055 and 43.216.065.

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

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor's proclamation directed state agencies to do everything reasonably possible to respond to and recover from the COVID-19 outbreak. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. The effects of its extreme risk of person-to-person transmission throughout Washington state significantly impact the life and health of our people, as well as our economy, and pose particular challenges to the availability of quality early learning and child care services for families with low incomes. The emergency amendment to WAC 110-15-0034 addresses these challenges by instituting a more stable subsidy provider payment practice through the end of April 2020.

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

Number of Sections Adopted at the Request of a 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 23, 2020.

Brenda Villarreal  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

**WAC 110-15-0034 Providers' responsibilities.** Child care providers who accept child care subsidies must do the following:

(1) Licensed or certified child care providers who accept child care subsidies must comply with all child care licensing or certification requirements contained in this chapter, chapter 43.216 RCW and chapters 110-06, 110-300, ~~((110-300A, 110-300B, and))~~ 110-305, and 110-310 WAC.

(2) In-home/relative child care providers must comply with the requirements contained in this chapter, chapter 43.216 RCW, and chapters 110-06 and 110-16 WAC.

(3) In-home/relative child care providers must not submit an invoice for more than six children for the same hours of care.

(4) All child care providers must use DCYF's electronic attendance recordkeeping system or a DCYF-approved electronic attendance recordkeeping system as required by WAC 110-15-0126. Providers must limit attendance system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(a) Providers using DCYF's electronic recordkeeping system must submit monthly attendance records prior to claiming payment. Providers using a DCYF-approved electronic recordkeeping system must finalize attendance records prior to claiming payment.

(b) Providers must not edit attendance records after making a claim for payment.

(5) All child care providers must complete and maintain accurate daily attendance records. If requested by DCYF or DSHS, the provider must provide to the requesting agency the following records:

(a) Attendance records must be provided to DCYF or DSHS within twenty-eight calendar days of the date of a written request from either department.

(b) Pursuant to WAC 110-15-0268, the attendance records delivered to DCYF or DSHS may be used to determine whether a provider overpayment has been made and in an immediate suspension of the provider's subsidy payment.

(6) All child care providers must maintain and provide receipts for billed field trip/quality enhancement fees as follows. If requested by DCYF or DSHS, the provider must provide the following receipts for billed field trip/quality enhancement fees:

(a) Receipts from the previous twelve months must be available immediately for review upon request by DCYF;

(b) Receipts from one to five years old must be provided within twenty-eight days of the date of a written request from either department.

(7) All child care providers must collect copayments directly from the consumer or the consumer's third-party payor, and report to DCYF if the consumer has not paid a copayment to the provider within the previous sixty days.

(8) All child care providers must follow the billing procedures required by DCYF.

(9) Child care providers who accept child care subsidies must not:

(a) Claim a payment in any month a child has not attended at least one day within the authorization period in that month(~~(; however,))~~ except:

(i) A provider eligible for payment under WAC 110-15-0106 may submit a claim for payment based on enrollment for the period March 16 through April 30, 2020; and

(ii) In the event a ten-day notice terminating a provider's authorization extends into the following month, the provider may claim a payment for any remaining days of the ten calendar day notice in that following month;

(b) Claim an invoice for payment later than six months after the month of service, or the date of the invoice, whichever is later; or

(c) Charge consumers the difference between the provider's customary rate and the maximum allowed state rate.

(10) Licensed and certified providers must not charge consumers for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Days for which the child is scheduled and authorized for care but absent;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

(11) Providers who care for children in states bordering Washington state must verify they are in compliance with their state's licensing regulations and notify DCYF within ten days of any suspension, revocation, or changes to their license.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

### WSR 20-08-028

#### RECISSION OF EMERGENCY RULES HORSE RACING COMMISSION

[Filed March 23, 2020, 11:04 a.m.]

The Washington horse racing commission would like to rescind the rule-making order emergency rule only (CR-103E), WSR 20-07-107, filed on March 18, 2020. On March 23, 2020, an update[d] emergency rule was filed expanding language from original filing.

Contact Douglas Moore if you have any questions.

Douglas L. Moore  
Executive Secretary

### WSR 20-08-029

#### EMERGENCY RULES

#### HORSE RACING COMMISSION

[Filed March 23, 2020, 11:06 a.m., effective March 23, 2020, 11:06 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 essential to operation of the facility and for the care and well being of the equine athletes [athletes]. The exception will be of those delivering essential 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 and operation of the facility.

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 23, 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. (((H)))** 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)) (1) The person holds a license or credentials that are essential to the daily operations of the facility and/or the care and well being of the equines. Those licenses include:~~

~~(a) Association security, maintenance and administrative staff;~~

~~(b) Commission staff;~~

~~(c) Exercise or pony rider;~~

~~(d) Groom;~~

~~(e) Horsemen's association staff;~~

~~(f) Trainers and assistant trainers;~~

~~(g) Veterinarian and their employees; and~~

~~(h) Vendors and their employees including, but not limited to, platers, tack and equipment providers, feed and supplies providers.~~

~~(2) Access may be granted to the grounds for those not currently licensed delivering essential supplies and transporting horses on or off the grounds. A log of nonlicensed individuals granted access to the restricted area must be maintained by association security and made available on request for review.~~

~~(3) The person holds a pass issued by the association.~~

~~(4) 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)) (5) Passes must be displayed while in a restricted area.~~

**WSR 20-08-030**  
**EMERGENCY RULES**  
**BOARD OF**

**PILOTAGE COMMISSIONERS**

[Filed March 23, 2020, 11:44 a.m., effective March 23, 2020, 11:44 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend WAC 363-116-078 Pilot training program, in order to address the Governor's State of Emergency Proclamation 20-05 concerning novel coronavirus/COVID-19.

Citation of Rules Affected by this Order: Amending WAC 363-116-078.

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: Governor Inslee declared a State of Emergency via Proclamation 20-05 in response to coronavirus/COVID-19. To minimize the risk of introducing vectors of exposure onto a vessel or to pilot trainees, the board may suspend or adjust the pilot training program. Trainees will be allowed to resume regular training at a time determined by the board. Trainees will continue to receive the maximum stipend during this training program suspension or adjustment. The board may also consider additional training opportunities for pilot trainees, such as distance learning or completion if they are nearing the end of their program, as determined by the trainee evaluation committee (TEC).

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 20, 2020.

Jaimie C. Bever  
Executive Director

**AMENDATORY SECTION** (Amending WSR 19-03-141, filed 1/22/19, effective 2/22/19)

**WAC 363-116-078 Pilot training program.** After passing the written examination and simulator evaluation, pilot candidates pursuing a pilot license are positioned on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board before consideration for licensure.

(1) Notification. Pilot candidates on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with the best address for notification to enter into a training program. In addition, a pilot candidate shall provide the board with other means of contact such as postal mailing or email address, phone number, and/or fax number. The email address with a read receipt request, however, will be considered the primary means of notification by the board. It will be the responsibility of the pilot candidate to ensure the board has current contact information at all times. If a pilot candidate cannot personally receive postal or electronic mail at the address(es) provided

to the board for any period of time, another person may be designated in writing as having power of attorney specifically to act in the pilot candidate's behalf regarding such notice. If notice sent to the email address provided by the pilot candidate is not acknowledged after three attempts or if notice sent via certified mail is returned after three attempts to deliver, that pilot candidate will be skipped and the next pilot candidate on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot candidate or his/her designated attorney-in-fact shall respond within fifteen calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot candidate or candidates in a training program for either pilotage district, notification shall be given as provided in subsection (1) of this section. Pilot candidates shall be ranked in accordance with a point system established by the board based on overall performance on the written examination and simulator evaluation. Candidates shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot candidate who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot candidate. If the pilot candidate indicated interest in the other pilotage district on the application for the written examination, the candidate shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot candidate who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When a pilot candidate delays entry into a training program by more than two months, the board gives notice to the next pilot candidate on the list for that pilotage district to enter a training program. The pilot candidate who delays entry shall remain eligible for the next position in that district provided that the next position becomes available within the earlier of:

(i) Four years from the pilot candidate's taking the written examination; or

(ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot candidate not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077.

(3) Training license. Prior to receiving a training license pilot candidates must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot candidates. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot candidate's fitness to pilot. The physical examination must be taken not more than ninety days before issuance of

the training license. Holders of a training license will be required to pass a general physical examination annually within ninety days prior to the anniversary date of that training license. Training license physical examinations will be at the expense of the pilot candidate. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot candidate shall provide a completed experience questionnaire to the trainee evaluation committee (TEC), a committee created per subsection (11) of this section. The training program consists of three phases: Observation trips, training trips, and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot candidate. If the pilot candidate agrees in writing to the training program, the board shall issue a training license to the pilot candidate, which license shall authorize the pilot candidate to take such actions as are contained in the training program. If the pilot candidate does not agree to the terms of a training program, in writing, within fifteen business days of it being received by certified mail return receipt, or by email read receipt requested, that pilot candidate shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot candidate that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial assigned route.

(a) The TEC shall assign an initial route to each trainee at the beginning of his/her training program between a commonly navigated port or terminal and the seaward boundary of the pilotage district.

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is continuously on stipend, plus an additional month for every month a trainee is off stipend (up to a maximum of fifteen months), the trainee must:

(i) Take and pass with a minimum score of eighty percent all conning quizzes provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These quizzes may be repeated as necessary provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed within the time period specified in (b) of this subsection; and

(ii) Take and pass with a minimum score of eighty-five percent the local knowledge examination(s) provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These examinations can be repeated as necessary provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the initial assigned route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of assigned requirements in three phases: Observation, training, and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the TEC or with pilots designated by the TEC. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by supervising pilots and the pilot members of the TEC or with pilots designated by the TEC.

(7) Length of training program. For the Puget Sound district the length of the program shall not exceed thirty-six months. For the Grays Harbor district the length of the program will be determined at the time the training program is written.

(8) Local knowledge conning quizzes and local knowledge exams. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. Each conning quiz will be organized by main channel routes, ports, and approaches. A conning quiz is not intended to replace a local knowledge exam as specified in subsection (5)(b)(ii) of this section, but there will be some overlap of subject matter. A pilot trainee shall pass a conning quiz or quizzes related to the route or harbor area to move from the observation phase to the training phase of his/her training program for that route or harbor area. After a trainee has successfully passed a conning quiz on a main channel route or a port and approach, he/she will be eligible to take the conn on that route or approach unless it is a U.S. flag vessel and the required federal pilotage endorsement has not been obtained. The local knowledge exam for the initial route must be completed within eight months of the training start date if the trainee is taking the stipend. For each month the trainee is off stipend, an additional month is added up to a maximum of fifteen months to successfully pass the appropriate local knowledge exam. The final local knowledge exam must be completed before consideration for licensing and must be successfully passed before the expiration date of the training program. The conning quizzes and local knowledge exams will be administered at the offices of the board of pilotage commissioners. Eighty percent is the passing grade for conning quizzes, and eighty-five percent is required for the local knowledge exams. If a trainee fails a conning quiz or local knowledge

exam, it may be retaken after seven days, but must be passed within the timing deadlines discussed above. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:

- (a) Area geography;
  - (b) Waterway configurations including channel depths, widths and other characteristics;
  - (c) Hydrology and hydraulics of large ships in shallow water and narrow channels;
  - (d) Tides and currents;
  - (e) Winds and weather;
  - (f) Local aids to navigation;
  - (g) Bottom composition;
  - (h) Local docks, berths and other marine facilities including length, least depths and other characteristics;
  - (i) Mooring line procedures;
  - (j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;
  - (k) Vessel traffic system;
  - (l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;
  - (m) Air draft and keel clearances;
  - (n) Submerged cable and pipeline areas;
  - (o) Overhead cable areas and clearances;
  - (p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;
  - (q) Lock characteristics, rules and regulations;
  - (r) Commonly used anchorage areas;
  - (s) Danger zone and restricted area regulations;
  - (t) Regulated navigation areas;
  - (u) Naval operation area regulations;
  - (v) Local ship assist and escort tug characteristics;
  - (w) Tanker escort rules - State and federal;
  - (x) Use of anchors and knowledge of ground tackle;
  - (y) Applicable federal and state marine and environmental safety law requirements;
  - (z) Marine security and safety zone concerns;
  - (aa) Harbor safety plan and harbor regulations;
  - (bb) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; and
  - (cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.
- (9) Rest. It is the responsibility of the pilot trainee to obtain adequate rest. Pilot trainees shall observe the rest rules for pilots in place by federal or state law or regulation and rules established in the applicable pilotage district in which they will train, or any other rest requirements contained in a training program.
- (10) Stipend.
- (a) At the initial meeting with the TEC the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition of receiving such stipend, pilot train-

ees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the TEC, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program provided that such change request is provided in writing from the trainee. If the trainee intends to be in nonstipend status more than four consecutive months, his/her particular training program may be constructed to provide recency and/or a change in seniority placement prior to resuming the training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be a maximum of six thousand dollars per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-300 sufficient to cover the expense of the stipend, and shall be paid from a pilot training account as directed by the board. In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's receipt of funds, from any party collecting the tariff or providing funds, sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board.

Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the third day of the following month. Proration of the stipend shall be allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:

(i) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

(ii) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month.

(b)(i) In the Puget Sound pilotage district a minimum of twelve trips are required each month for eligibility to receive the minimum stipend amount as set by the board, or eighteen trips to receive the maximum stipend amount as set by the board. A trainee may make more than eighteen trips in a calendar month, but no further stipend will be earned for doing so. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is seventy percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

(ii) Whenever the governor issues a proclamation declaring a state of emergency, the board may determine whether there is a threat to trainees, pilots, vessel crews, or members of the public. Notwithstanding the other provisions of this chapter, the board, at its discretion, may suspend or adjust the pilot training program during the pendency of a state of emergency lawfully declared by the governor. If the board suspends or adjusts the pilot training program, pilot trainees will continue to receive the maximum stipend allowable under this section, as if a trainee had taken eighteen trips per month,

until the board determines otherwise. The trainee evaluation committee may further consider additional nonshipboard pilot training including, but not limited to, distance learning.

(c) The TEC will define areas that are considered to be hard-to-get, which many differ for trainees depending on their date of entry. It is the pilot trainee's responsibility to make all available hard-to-get trips, as defined and assigned by the TEC. The board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

(d) The TEC, with approval by the board may allocate, assign or specify training program trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training program trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

(i) When it is necessary to accommodate any pilot trainee's initial route;

(ii) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

(e) If a pilot trainee elects to engage in any full-or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

(f) If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days beginning at the beginning of a month, provided that before any change takes effect, a request is made to the TEC in writing. The requirement for designated hard-to-get trips is waived during the time the pilot trainee is authorized to be in nonstipend status.

(g) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC 363-116-185 or 363-116-300 shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC 363-116-185 shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a monthly basis or

at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) Supervising pilots. The board shall designate as supervising pilots those pilots who are willing to undergo such specialized training as the board may require and provide. Supervising pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of supervising pilots available for public inspection at all times. All pilot members TEC shall also be supervising pilots.

(13) Training program trip reports. After each training program trip, the licensed or supervising pilot shall complete a training program trip report form (TPTR) provided by the board. Training program trip report forms prepared by licensed pilots who are supervising pilots shall be used by the TEC and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. Licensed pilots who are not supervising pilots may only have trainees on board for observation trips. All trip report forms shall be delivered or mailed by the licensed or supervising pilot to the board. They shall not be given to the pilot trainee. The licensed or supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. The TEC shall review these training program trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

(a) Failure to maintain the minimum federal license required by RCW 88.16.090;

(b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;

(c) Failure to devote full time to training in the Puget Sound pilotage district while receiving a stipend;

(d) The pilot trainee is not physically fit to pilot;

(e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;

(f) Inadequate performance on examinations or other actions required by a training program;

(g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;

(h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training program trips as determined by the supervising pilots, the TEC and/or the board;

(i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirements that the pilot trainee:

(a) Successfully complete all requirements set forth in the training program including any addendum(s) to the program;

(b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot candidate seeks a license; and

(c) Complete portable piloting unit (PPU) training as defined by the TEC.

## WSR 20-08-032

### EMERGENCY RULES

#### EMPLOYMENT SECURITY DEPARTMENT

[Filed March 23, 2020, 2:38 p.m., effective March 23, 2020, 2:38 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 applications for standby (WAC 192-110-015) and allows the requirement to register for and search for work to be met by staying in contact with the employer; requires the claimant to be available for suitable work; allows for standby for up to twelve weeks; allows the commissioner to grant more than twelve weeks of standby in cases related to COVID-19 or the governor's emergency proclamation; and expands standby eligibility to full-time, part-time, and less than full-time workers.

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 23, 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))~~ twelve weeks; or

(ii) You expect to begin full-time work with a new employer within ~~((two))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve 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))~~ twelve weeks is necessary. Exceptions can also be made due to a COVID-19 infection at the employer's place of business or an emergency proclamation by the governor 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))~~ twelve weeks, which includes the week of the job offer and up to ~~((two))~~ twelve 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))~~ twelve weeks of standby; and

(f) After ~~((eight))~~ twelve 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 20-08-040

#### EMERGENCY RULES

#### EMPLOYMENT SECURITY DEPARTMENT

[Filed March 24, 2020, 3:30 p.m., effective March 24, 2020, 3:30 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 making the requirement to search for work optional for unemployment claimants effective March 8, 2020.

Citation of Rules Affected by this Order: Amending WAC 192-170-010, 192-180-010, 192-180-013 and 192-180-025; and suspending WAC 192-140-075, 192-140-080, 192-180-012, 192-180-014, 192-180-015, 192-180-020, and 192-180-040.

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 4, Repealed 7.

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 24, 2020.

Dan Zeitlin  
Employment Security Policy Director

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

**WAC 192-170-010 Availability for work—RCW 50.20.010.** ~~((+))~~ In general, the department will consider you available for work if you:

~~((+))~~ (1) Are willing to work full-time, part-time, and accept temporary work during all of the usual hours and days of the week customary for your occupation.

~~((+))~~ (a) You are not required to be available for part-time or temporary work if it would substantially interfere with your return to your regular occupation.

~~((+))~~ (b) The requirement to be available for full-time work does not apply under the circumstances described in WAC 192-170-050 (1)(b) or 192-170-070;

~~((+))~~ (2) Are capable of accepting and reporting for any suitable work within the labor market in which you are seeking work;

~~((+))~~ (3) Do not impose conditions that substantially reduce or limit your opportunity to return to work at the earliest possible time;

~~((+))~~ (4) Are available for work during the hours customary for your trade or occupation; and

~~((+))~~ (5) Are physically present in your normal labor market area, unless you are actively seeking and willing to accept work outside your normal labor market.

~~((2))~~ You are not considered available for work if you fail or refuse to seek work as required in a directive issued by the department under WAC 192-180-010.)

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

**WAC 192-180-010 Job search requirements—Directives—RCW 50.20.010 (1)(c) and 50.20.240.** ~~((+))~~ ~~Do I have to look for work?~~ You must be actively seeking work unless you are:

~~((a))~~ Attached to an employer as defined in WAC 192-180-005(1); or

~~((b))~~ Participating in a training program approved by the commissioner.

~~((2))~~ ~~When should I start my job search?~~ You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1) of this section.

~~((3))~~ ~~What are my weekly job search requirements?~~

~~((a))~~ At a minimum, you must:

~~((i))~~ Make job search contacts with at least three employers each week; or

~~((ii))~~ Participate in three approved in-person job search activities through the WorkSource office or the equivalent public employment agency in the state in which you reside, or any combination of employer contacts or in-person job search activities for a total of three.

~~((b))~~ Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

~~((c))~~ If you are a member of a referral union you must be registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see WAC 192-210-120). Your benefits may be

denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

**(4) What is a "job search contact"?** A job search contact is a contact with an employer to inquire about or apply for a job. You must use job search methods that are customary for your occupation and labor market area including, but not limited to, in person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100 and 50.20.110) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department decides the contact is designed in whole or in part to avoid meeting the job search requirements. Simply posting your resume online (for example, Simplyhired.com or Craigslist) does not constitute a job search contact for purposes of this section; in addition to posting your resume, an application or contact with an employer for a job must be submitted to count as one of the required weekly job search contacts.

**(5) What is an "in-person job search activity"?** This is an activity provided or monitored through the WorkSource office or the equivalent public employment agency in the state in which you reside that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided or monitored by WorkSource staff or other affiliated agencies and approved by the local WorkSource office. For claimants residing in Washington state, an in-person job search activity must be documented in the department's computer system to qualify. For interstate claimants, the activity must be documented by the equivalent public employment agency in the state in which you reside.

**(6) What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3) of this section, unless the directive is required under WAC 192-180-012.

**(7) When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
- (b) Change your method of looking for work;
- (c) Expand the geographic area in which you look for work;
- (d) Look for work in a secondary occupation; or
- (e) Accurately record your job search activities as required by WAC 192-180-015.

**(8) When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given; the directive is rescinded in writing; your benefit year ends; or you receive final payment on any extension of benefits related to that benefit year, whichever is later.) Effective March 8, 2020, you may choose to look for work while you are unemployed, but you are not required to look for work in order to be eligible for benefits.

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

**WAC 192-180-025 Job search reviews. ((+)) 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;
- (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.))~~  
Effective March 8, 2020, the commissioner will no longer direct you to provide evidence that you are actively seeking work as part of a job search monitoring program.

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

**WAC 192-180-013 What are the job search requirements for individuals who work less than full time? ((+))**  
**"Partially unemployed"** workers are those individuals:

- (a) Who were hired to work full time;
- (b) Whose weekly hours of work have been temporarily reduced by their employer by no more than sixty percent;
- (c) Who earn less than one and one-third times their weekly benefit amount plus five dollars during a week; and
- (d) Who are expected to return to full time work for their employer within four months.

The department considers these workers to be employer attached and they are not required to register for or seek work. They must be available for all work offered by their regular employer.

~~((2) "Part time" workers are individuals who normally work less than full time, or who take a job that is less than full time. To be eligible for benefits, these individuals must be available for and actively seeking full time work and the department may review their job search at any time. If they get a part time job, they must continue to look for full time work or we will deny their benefits under RCW 50.20.010 (1)(c). This definition of "part time" workers means individuals who work part time but do not meet the requirements of RCW 50.20.119.~~

~~(3) "Part time eligible" workers are individuals who have worked no more than seventeen hours in any week of their base year. They are eligible for benefits under RCW 50.20.119. These individuals may look for work of seventeen or fewer hours per week and the department may review their job search at any time. Once an individual gets a job for seventeen or fewer hours per week, he or she is employer attached and no longer required to look for work.))~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 192-180-012 Requirements of individuals who leave work due to illness or disability.
- WAC 192-180-014 Requirements of individuals who leave work due to domestic violence or stalking—RCW 50.20.010 (1)(c).
- WAC 192-180-015 Tracking job search activities—RCW 50.20.240.
- WAC 192-180-020 Monitoring job search activities—RCW 50.20.240.

WAC 192-180-040 Directive to attend job search workshop or training course—RCW 50.20.044.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 192-140-075 What happens if I do not demonstrate that I am actively looking for work?
- WAC 192-140-080 What happens if I do not comply with a job search directive?

#### REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 192-240-030 Job search requirements to receive extended benefits—RCW 50.22.020(5).

### **WSR 20-08-043**

#### **EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 20-50—Filed March 25, 2020, 10:23 a.m., effective March 25, 2020, 10:23 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Washington department of fish and wildlife (WDFW) is closing all lands, including all wildlife area units and all water access areas. All areas closed to public access due to the governor's order to "stay home and stay healthy."

Additionally, WDFW is closing all lands to camping, until further notice. It is our intent to keep the camping closure in place through April 30, 2020, at a minimum, and we will reassess the need for the public access and camping closures as more information becomes available. This includes campgrounds, water access areas, and dispersed camping on wildlife areas. We are doing this in order to comply with the social distancing and public safety precautions associated with the COVID-19 threat.

Citation of Rules Affected by this Order: Amending WAC 220-500-040 and 220-500-100.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, and 77.04.055.

Other Authority: None.

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

Reasons for this Finding: Use of all WDFW lands, water access and camping on WDFW lands encourages gatherings of people in locations without the ability to maintain the social distancing and sanitation measures to prevent the

spread of COVID-19. Due to much work and school being suspended due to the COVID-19 threat, we are seeing increasing use at our campgrounds. Data indicates most state campground users travel significant distances to experience camping, thus increasing the potential incidence of human interaction and contact that we are all trying to minimize. Additionally, we are aware that the following local, state and federal campground closures will lead to increasing demand on our lands for camping: Snohomish County, Grant County PUD, state parks and state forestlands in Oregon, state parks in California, Washington state parks, Washington department of natural resources, Mount Baker Snoqualmie National Forest. We are coordinating with our sister state land management agencies and the governor's office on this decision.

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 25, 2020.

Kelly Susewind  
Director

#### NEW SECTION

##### **WAC 220-500-04000C Regulating public access.**

Notwithstanding the provisions of WAC 220-500-040, effective immediately, until further notice, the change shall read as follows:

(1) All WDFW lands, including all Wildlife Area Units and all Water Access Areas are closed to public access due to the Governor's order to "stay home and stay healthy."

#### NEW SECTION

**WAC 220-500-10000A Camping.** Notwithstanding the provisions of WAC 220-500-100, effective immediately, until further notice:

(1) It is unlawful to establish or occupy a camp on department lands.

(2) It is unlawful to establish or occupy a residence camp on department lands. For purposes of this section, a residence camp is an encampment, occupancy, or presence on department lands that is the principal place of residence for the person or occupant.

(3) A residence camp on department lands is declared to be a public nuisance and may be abated by the department after ten days of notice by the department.

#### **WSR 20-08-044**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **CHILDREN, YOUTH, AND FAMILIES**

[Filed March 25, 2020, 10:32 a.m., effective March 25, 2020, 10:32 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Enact new chapter 110-310 WAC, Emergency child care and early learning licensing to establish emergency child care license requirements. Amend chapter 110-06 WAC to shorten the processing time for background checks by allowing name-based background checks for licensees, staff, and volunteers who provide child care and early learning services.

Citation of Rules Affected by this Order: New WAC 110-310-0001, 110-310-0005, 110-310-0010, 110-310-0015, 110-310-0020, 110-310-0025, 110-310-0030 and 110-310-0035; repealing WAC 110-06-0044; and amending WAC 110-06-0040 and 110-06-0046.

Statutory Authority for Adoption: RCW 43.216.065.

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

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. The department of children, youth, and families' (DCYF) ability to issue emergency child care licenses will better ensure a safe and healthy supply of child care services during the pandemic. DCYF believes allowing name-based instead of fingerprint-based background checks will shorten processing time allowing DCYF to issue licenses more quickly and licensees to staff their programs more quickly.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 2, Repealed 1.

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

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

Date Adopted: March 25, 2020.

Brenda Villarreal  
Rules Coordinator

NEW SECTION

**110-310-0001 Emergency child care license—Intent and authority.** (1) The department of children, youth, and families (or "the department") was established under chapter 6, Laws of 2017. Chapter 43.216 RCW establishes the department's responsibility and authority to set and enforce licensing requirements and ECEAP standards, including the authority to adopt rules to implement chapter 43.216 RCW.

(2) On February 29, 2020, the governor proclaimed a state of emergency in Washington state in response to the first case of the novel coronavirus disease 2019 (COVID-19). See proclamation by the governor no. 20-05. As of March 11, 2020, the world health organization has classified COVID-19 as a pandemic. See proclamation by the governor no. 20-08. The pandemic spreads easily and rapidly from person-to-person and may result in serious illness or death. See proclamation by the governor no. 20-16.

(3) In response to this pandemic Washington's citizens including, but not limited to, first responders, healthcare workers, retail workers, public works employees, and other professionals in Washington state are working each day to: curtail the spread of COVID-19, treat victims of this disease, supply citizens with goods to properly "social distance" themselves from others, and continue the regular operation of everyday services and utilities.

(4) As a result of this pandemic, and under the authority granted to the department under RCW 43.216.065 (2)(c) the department shall issue emergency child care licenses to ensure a safe and healthy supply of child care services during the pandemic.

NEW SECTION

**110-310-0005 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" shall have the same meaning as described in RCW 43.216.010.

(2) "Department" means the Washington state department of children, youth, and families.

(3) "Early learning" shall have the same meaning as described in RCW 43.216.010.

(4) "Emergency Child Care license" means a license authorized under this chapter that allows a person, firm, partnership, association, or corporation to provide child care in an approved home or residence that is occupied by the licensee, or in an approved facility that is not used as a home or residence.

(5) "Emergency license agreement" means the agreement described in WAC 110-310-0020.

(6) "Enforcement action" shall have the same meaning as described in RCW 43.216.010.

(7) "Seasonal camp" for the purposes of emergency child care licensing and the exemption listed in RCW 43.216.010 (2)(g) means a program of three months' or less duration engaged primarily in recreational or educational activities conducted on a closely supervised basis, owned by any person or persons, organization, association, corporation, or agency of federal, state, county or municipal government,

and operated, maintained, or offered for use within the state of Washington either free of charge or by payment of a fee.

NEW SECTION

**110-310-0010 Emergency child care license—License required.** (1) Pursuant to RCW 43.216.250(6), any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's home must be licensed. Individuals and entities that may be exempt from licensing are described in RCW 43.216.010(2).

(2) Pursuant to RCW 43.216.365, an agency operating without an appropriate license shall be guilty of a misdemeanor. Under RCW 43.216.360 the department may issue a penalty of one hundred fifty dollars per day for each day a family day care home provided care without being licensed and two hundred fifty dollars for each day a child day care center provided care without being licensed.

NEW SECTION

**110-310-0015 Emergency child care license—Application.** (1) To be eligible for an emergency child care license, an applicant must:

(a) Be at least 18 years of age;

(b) Submit a paper or electronic application to the department for an emergency child care license; and

(c) Sign and submit to the department an affidavit stating that upon the issuance of an emergency child care license the applicant will comply with the requirements described in chapter 43.216 RCW, this chapter, and emergency license agreement that is prepared and authorized by the department.

(2) Pursuant to RCW 43.216.260, an application must include the following information:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;

(c) The number of qualified persons required to render the type of care for which an agency seeks a license;

(d) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;

(e) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established under chapter 43.216 RCW and this chapter; and

(g) The maintenance of records pertaining to the care of children.

NEW SECTION

**110-310-0020 Licensing rules.** (1) To protect the health and safety of children in care as authorized under this chapter the provider must agree, enter into, and comply with the

terms and conditions of an emergency license agreement prepared and authorized by the department.

(2) The Emergency license agreement shall require compliance with the following minimum terms and conditions:

(a) Compliance with the requirements described in chapter 43.216 RCW;

(b) Compliance with the requirements described in this chapter;

(c) Compliance with the background check requirements described in chapter 43.43 RCW, chapter 43.216 RCW, and the regulations contained in chapter 110-06 WAC that are listed in section (3) of this section;

(d) Compliance with the regulations contained in chapter 110-300 WAC that are listed in section (3) of this section; and

(e) Compliance with all other requirements described in the emergency license agreement.

(3) The licensee must comply with the following regulations contained in chapter 110-06 WAC and chapter 110-300 WAC:

(a) WAC 110-06-0010, 110-06-0020, 110-06-0040, 110-06-0043, 110-06-0045, 110-06-0050, 110-06-0070, 110-06-0080, 110-06-0090, 110-06-0100, 110-06-0110, 110-06-0115, and 110-06-0120; and

(b) WAC 110-300-0005, 110-300-0147, 110-300-0165, 110-300-0166, 110-300-0175, 110-300-0185, 110-300-0200, 110-300-0205, 110-300-0210, 110-300-0215, 110-300-0221, 110-300-0230, 110-300-0236, 110-300-0240, 110-300-0241, 110-300-0245, 110-300-0260, 110-300-0270, 110-300-0280, 110-300-0281, 110-300-0290, 110-300-0291, 110-300-0295, 110-300-0296, 110-300-0330, 110-300-0331, 110-300-0350, 110-300-0354, 110-300-0420, 110-300-0435, 110-300-0436, 110-300-0440, 110-300-0443, 110-300-0455, 110-300-0475, and 110-300-0485.

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

#### NEW SECTION

**110-310-0025 Denial, modification, suspension, and revocation of an emergency child care license—Right of review.** (1) A license authorized to be issued under this chapter may be denied pursuant to chapter 43.216 RCW, this chapter, and chapter 110-06 WAC.

(2) A license issued under this chapter may be suspended, modified, or revoked if the licensee fails to comply with the requirements contained in chapter 43.216 RCW, this chapter, or chapter 110-06 WAC.

#### NEW SECTION

**110-310-0030 Process for seeking review.** (1) Pursuant to RCW 43.216.250 and RCW 43.216.325, the department is authorized to take enforcement action against an applicant or licensee if the licensee fails to comply with this chapter, chapter 110-06 WAC or chapter 43.216 RCW.

(2) An applicant or licensee has the right to appeal an enforcement action by requesting an adjudicative proceeding

(or "hearing") pursuant to the hearing rules codified in chapter 110-03 WAC.

(3) The department must issue a notice of violation to an early learning provider when taking enforcement actions. A notice of violation must be sent certified mail or personal service and must include the following information:

- (a) The reason why the department is taking the action;
- (b) The rules the provider failed to comply with;
- (c) The provider's right to appeal enforcement actions; and
- (d) How the provider may appeal and request a hearing.

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

#### NEW SECTION

**110-310-0035 Emergency rules and emergency child care license termination date.** (1) This chapter shall expire:

(a) 180 days after the date the governor issues a proclamation declaring the termination of the state of emergency caused by COVID-19; or

(b) On the expiration date of the last emergency child care license issued under this chapter.

(2) An emergency child care license issued under this chapter shall expire six months after the date of issue.

AMENDATORY SECTION (Amending WSR 19-21-064, filed 10/11/19, effective 11/11/19)

**WAC 110-06-0040 Background clearance requirements.** This section applies to all subject individuals other than in-home/relative providers.

(1) Subject individuals associated with early learning services applying for a first-time background check must complete the DCYF background check application process including, but not limited to:

(a) Submitting a completed background check application; and

(b) Completing the required ~~((fingerprint))~~ name-based background check process ~~((; and~~

~~((e) Paying all required fees as provided in WAC 110-06-0044)).~~

(2) All subject individuals qualified by the department to have unsupervised access to children in care who are renewing their applications must:

~~((#))~~ Submit the new background check application through DCYF ~~((;~~

~~((b) Submit payment of all required fees as provided in WAC 110-06-0044; and~~

~~((c) Complete the required fingerprint process if the subject individual lives or has lived outside of Washington state since the previous background check was completed, or has not previously completed the fingerprint process required by this section.))~~

(3) Each subject individual completing the DCYF background check process must disclose whether they have:

- (a) Been convicted of any crime;
- (b) Any pending criminal charges; and

(c) Been subject to any negative action, as defined by WAC 110-06-0020.

(4) Subject individuals must not have unsupervised access to children in care unless they have obtained DCYF authorization under this chapter.

(5) A subject individual who has been disqualified by DCYF must not be present on the premises when early learning services are provided to children.

**AMENDATORY SECTION** (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

**WAC 110-06-0046 Requirements for license-exempt in-home/relative providers.** (1) The background check process must be completed for:

(a) All license-exempt in-home/relative providers who apply to care for a WCCC consumer's child; and

(b) Any individual sixteen years of age or older who is residing with a license-exempt in-home/relative provider when the provider cares for the child in the provider's own home where the child does not reside.

(2) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when an individual sixteen years of age or older is newly residing with a license-exempt in-home/relative provider when the provider cares for the child in the provider's own home where the child does not reside.

(3) The background check process for license-exempt in-home/relative providers requires:

(a) Submitting a completed background check application; and

(b) Completing the required ~~((fingerprint))~~ name-based background check process.

(4) Each subject individual completing the DCYF background check process must disclose:

(a) Whether he or she has been convicted of any crime;

(b) Whether he or she has any pending criminal charges; and

(c) Whether he or she has been subject to any negative actions, as defined by WAC 110-06-0020.

(5) A subject individual must not have unsupervised access to children in care unless he or she has obtained DCYF background check clearance authorization under this chapter.

(6) A subject individual who has been disqualified by DCYF must not be present on the premises when early learning services are provided to children.

(7) DCYF pays for the cost of the background check process. The fees include:

(a) ~~((Fingerprint))~~ Name-based background check process fees as defined by the Washington state patrol ~~((Federal Bureau of Investigation and the DCYF fingerprint contractor))~~; and

(b) The DCYF administrative fee.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 110-06-0044 Background check fees.

**WSR 20-08-049**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Office of the Secretary)

[Filed March 25, 2020, 12:22 p.m., effective March 25, 2020, 12:22 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is filing this emergency in response to the public health crisis created by the COVID-19 virus (commonly referred to as the "Coronavirus"). This emergency allows electronic filing and electronic distribution of notices and orders to the office of administrative hearings (OAH) via email by striking the email prohibition, adding a provision for email filing with OAH, and adding clarifying language.

Citation of Rules Affected by this Order: Amending WAC 388-02-0075 How does a party file documents?

Statutory Authority for Adoption: RCW 43.17.060, 43.20A.550, 34.05.020, 34.05.350.

Other Authority: Proclamation by the Governor 20-05.

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: To protect public health, safety, and welfare there is an emergent need to allow electronic filing and electronic distribution of notices and orders to OAH supporting "social distancing" 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." OAH has issued "Temporary Emergency Policy and Procedures" authorizing electronic filings for the department of social and health services, health care authority and the department of children, youth, and families caseloads, effective March 25, 2020. Instructions for using secure email filing are available at [www.oah.wa.gov](http://www.oah.wa.gov).

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 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 25, 2020.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0075 How does a party file documents?**

(1) A party may file documents by delivering them to OAH or BOA by:

- (a) Personal service (hand delivery);
- (b) First class, registered, or certified mail;
- (c) Fax transmission if the party mails a copy of the document the same day;
- (d) Commercial delivery service; or
- (e) Legal messenger service.

(2) ~~((A))~~ Any party ((cannot)) may file documents with OAH by secure email. The BOA does not accept electronic submission except by fax.

**WSR 20-08-051**

**RECISSION OF EMERGENCY RULES  
OFFICE OF  
FINANCIAL MANAGEMENT**

[Filed March 25, 2020, 1:27 p.m.]

The office of financial management (OFM) requests to rescind two emergency rules filed on OTS-2120.1, WSR 20-07-051 on March 11, 2020. The purpose of OFM's request to rescind WAC 357-31-265 and 357-31-327 as follows:

**WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?** The emergency rule was written to apply to both general government and higher education institutions however, the effect of suspended operations should only apply to general government employers. A new emergency rule will be filed to supersede the emergency rule that was filed on March 11, 2020.

**WAC 357-31-327 When must an employer grant leave without pay?** This emergency rule was written to require an employer to grant leave without pay when an employee requests to be on leave without pay due to the novel coronavirus 2019 (COVID-19) to protect themselves, a family member or a household member. Employers must have the option to deny an employee's request for leave without pay if the employee is needed to provide essential services because the employee is a health care provider, an emergency responder or otherwise necessary to maintain public safety. A new emergency rule will be filed to amend WAC 357-31-330, For what reasons **may** an employer grant leave without pay?

Should you have any questions regarding this matter, please contact Brandy Chinn 360-407-4141.

Roselyn Marcus  
Assistant Director of  
Legal and Legislative Affairs

**WSR 20-08-052  
EMERGENCY RULES  
OFFICE OF**

**FINANCIAL MANAGEMENT**

[Filed March 25, 2020, 1:28 p.m., effective March 25, 2020, 1:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To extend the deadline for an employee to request a director's review; to provide that the time an employee is not required to work or time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for holiday compensation, sick leave, vacation leave, and rate of accrual; to provide that general government employees not required to work during suspended operations due to COVID-19 will not receive any loss of pay; and to allow an employer to grant leave without pay for an employee to protect themselves, or a relative or household member, from risks related to COVID-19.

Citation of Rules Affected by this Order: Amending WAC 357-13-080, 357-31-010, 357-31-020, 357-31-025, 357-31-115, 357-31-120, 357-31-121, 357-31-125, 357-31-170, 357-31-175, 357-31-180, 357-31-265, and 357-31-330.

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 the Title 357 WAC with Governor Jay Inslee's issued Proclamation 20-05 which declares a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19, and subsequent proclamations. 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 13, 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 13, Repealed 0.

Date Adopted: March 25, 2020.

Roselyn Marcus  
Assistant Director of Legal  
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

**WAC 357-13-080 Can an employee request a director's review of a position review or reallocation of the employee's position?** An employee may request a director's review of the results of a position review or reallocation of the employee's position, per WAC 357-49-010. The employee must request the director's review within thirty calendar days of being provided the results of a position review or the notice of reallocation. However, while proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, is in effect an employee may request the director's review within sixty calendar days of being provided the results of a position review or the notice of reallocation.

AMENDATORY SECTION (Amending WSR 18-17-132, filed 8/20/18, effective 9/21/18)

**WAC 357-31-010 Which employees qualify for holiday compensation?** (1) Full-time general government employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

(a) For at least eighty nonovertime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

(c) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees who satisfy the requirements of subsection (2) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(6) Time an employee is not required to work or time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 10-23-040, filed 11/10/10, effective 12/13/10)

**WAC 357-31-020 For general government part-time employees, how is holiday compensation prorated?** (1) Compensation for holidays (including personal holiday) for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment, excluding all holiday hours.

(2) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

(3) Time an employee is not required to work or time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 10-23-120, filed 11/17/10, effective 12/18/10)

**WAC 357-31-025 How many hours are higher education employees compensated for on a holiday?** When a holiday as designated under WAC 357-31-005 falls on a higher education employee's scheduled work day:

(1) Full-time employees receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use of accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.

(a) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(b) Time an employee is not required to work or time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 10-23-120, filed 11/17/10, effective 12/18/10)

**WAC 357-31-115 How many hours of sick leave does an employee earn each month?** (1) Full-time employees earn eight hours of sick leave per month.

(2) Part-time general government employees earn sick leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Part-time higher education employees earn sick leave on the same pro rata basis that their appointment bears to a full-time appointment.

(a) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(b) Time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 18-05-032, filed 2/10/18, effective 3/13/18)

**WAC 357-31-120 Do overtime exempt employees accrue sick leave if they have taken leave without pay during the month?** (1) Full-time overtime exempt general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of sick leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time overtime exempt higher education employees with leave without pay exceeding eighty hours in a month (prorated for part-time) do not earn a monthly accrual of sick leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 18-05-032, filed 2/10/18, effective 3/13/18)

**WAC 357-31-121 Do overtime eligible employees accrue sick leave if they have taken leave without pay during the month?** (1) Full-time overtime eligible general government employees who are in pay status for less than eighty hours in a month, earn a monthly accrual proportionate to the number of hours in pay status, in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month.

(a) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

(b) Time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. This is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emer-

gency in the state of Washington, or any amendment thereto, whichever is later.

(2) Full-time and part-time overtime eligible higher education employees with leave without pay exceeding eighty hours in a month (prorated for part-time) will accrue a minimum of one hour for every forty hours worked.

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

**WAC 357-31-125 For general government part-time employees, how is leave accrual prorated?** (1) Vacation and sick leave accruals for part-time general government employees will be proportionate to the number of hours in pay status, in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month.

(2) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

(3) Time an employee is not required to work or time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 17-18-028, filed 8/28/17, effective 10/2/17)

**WAC 357-31-170 At what rate do part-time employees accrue vacation leave?** (1) Part-time general government employees accrue vacation leave hours on a pro rata basis in accordance with WAC 357-31-125.

(2) Part-time higher education employees accrue on the same pro rata basis that their appointment bears to a full-time appointment.

(a) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(b) Time an employee is not required to work or time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 12-04-016, filed 1/24/12, effective 2/24/12)

**WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 12-04-016, filed 1/24/12, effective 2/24/12)

**WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?** Leave without pay taken for military leave of absence without pay, for temporary layoff as provided in WAC 357-46-063, or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do not affect the rate at which employees accrue vacation leave. For all other periods of leave without pay, the following applies:

(1) When a general government employee takes leave without pay which exceeds fifteen consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.

(2) When a higher education employee takes more than ten working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165.

(a) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(b) Time an employee is on leave without pay due to coronavirus disease 2019 (COVID-19) will be considered time in pay status for the purpose of this section. 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 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.

General government 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 09-17-056 and 09-18-113, filed 8/13/09 and 9/2/09, effective 12/3/09)

**WAC 357-31-330 For what reasons may an employer grant leave without pay?** Leave without pay may be allowed for any of the following reasons in accordance with the employer's leave policy:

(1) For any reason leave with pay may be granted, as long as the conditions for leave with pay are met;

(2) Educational leave;

(3) Leave for government service in the public interest;

(4) Military leave of absence as required by WAC 357-31-370;

(5) Parental leave as required by WAC 357-31-460;

(6) Family care emergencies as required by WAC 357-31-295;

(7) Bereavement or condolence;

(8) Absence due to inclement weather as provided in WAC 357-31-255;

(9) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 357-19-295;

(10) Serious health condition of an eligible employee's child, spouse, registered domestic partner, or parent as required by WAC 357-31-525;

(11) Leave taken voluntarily to reduce the effect of an employer's layoff;

(12) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability; ((or))

(13) Employees receiving time loss compensation; or

(14) For an employee to protect themselves, or a relative or household member, from risks related to coronavirus disease 2019 (COVID-19). In determining whether to grant leave, an employer may consider whether the employee is needed to provide essential services because the employee is a health care provider, an emergency responder or otherwise necessary to maintain public safety.

**WSR 20-08-053**  
**EMERGENCY RULES**  
**SECRETARY OF STATE**

[Filed March 25, 2020, 2:32 p.m., effective March 25, 2020, 2:32 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To allow for ongoing processing of applications for the address confidentiality program without requiring a face to face in-person meeting to gather the applicant's signature.

Citation of Rules Affected by this Order: Amending WAC 434-840-010.

Statutory Authority for Adoption: RCW 40.24.090, 40.24.030.

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

Reasons for this Finding: During the COVID-19 health emergency, face to face meetings are prohibited by emergency orders. Program application can continue using the amended version of WAC 434-840-010, during this emergency.

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 25, 2020.

Mark Neary  
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 19-12-002, filed 5/22/19, effective 6/22/19)

**WAC 434-840-010 Application process.** (1) The secretary of state shall certify an eligible person as a program participant when the secretary of state receives an application that contains:

- (a) The full legal name and date of birth of the applicant(s);
- (b) A listing of all minor children residing at the residential address, each minor child's full legal name, and each minor child's date of birth, and each minor child's relationship to the applicant;
- (c) A listing of all adults residing at the residential address requesting participation, each adult's full legal name, date of birth, and relationship to the applicant;

(d) The Washington state residential addresses, work, and school addresses, if any, for which confidentiality is requested;

(e) The telephone number of the applicant(s);

(f) The address to which mail should be sent, this may be the same as the residential address;

(g) A sworn statement, under penalty of perjury, by the applicant, that the applicant has good reason to believe either:

(i) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking, and that the applicant fears for their safety or the safety of their children, or the safety of any minor children or incapacitated person on whose behalf the application is made; or

(ii) That the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020.

(h) The state of Washington personnel number, if the applicant or any of the persons covered by the application is a Washington state employee;

(i) The applicant's signature;

(j) The date on which the applicant signed the application;

(k) The signature, printed name, and phone number of the application assistant designated by the secretary of state under RCW 40.24.080 who assisted in preparation of the application;

(l) A completed checklist of understanding, signed and dated by the applicant designating the secretary of state as legal agent for purposes of service of process and for the purpose of receipt of mail.

(m) Signed authorization card form for each member of household.

(2) The application (~~must~~) should be completed and signed in the presence of an application assistant. If the application assistant has determined that the applicant is eligible for participation in the program, but the applicant is unable to meet in person, the application assistant will complete the application and forward it to the applicant for signature and return to the application assistant;

(3) The application assistant shall submit completed applications and any additional materials to the secretary of state using first class mail; and

(4) If the completed application does not meet the requirements of this part, the secretary of state shall contact the applicant to obtain missing information. The applicant shall be certified only if the missing information is provided.

**WSR 20-08-056**

**EMERGENCY RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed March 25, 2020, 3:16 p.m., effective March 25, 2020, 3:16 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is enacting WAC 388-845-2019 on an emergency basis to make temporary modifica-

tions to the developmental disabilities administration's home and community based services waivers in order to control the spread of the COVID-19 virus and to meet immediate health and safety needs.

Citation of Rules Affected by this Order: New WAC 388-845-2019.

Statutory Authority for Adoption: RCW 34.05.350, 71A.12.030.

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

Reasons for this Finding: Enacting this rule on an emergency basis is necessary to address effects of the COVID-19 outbreak and it is in the public interest to do so as following notice and comment requirements in the permanent rule-making process would delay temporary changes aimed to help clients avoid disruptions in service.

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

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

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

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

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

Date Adopted: March 25, 2020.

Katherine I. Vasquez  
Rules Coordinator

## NEW SECTION

**WAC 388-845-2019 What modifications to waiver services apply during the COVID-19 outbreak?** (1) Notwithstanding any contrary requirement under this title, changes under this section to DDA's home and community-based waivers are effective immediately and necessary to respond to managing the COVID-19 outbreak. All changes require prior approval by the DDA field services director or designee and will be assessed on a case-by-case basis. Once the emergency declaration regarding COVID-19 is expired, this rule will no longer be applicable, and allowances approved in this rule must end.

(2) The following changes to waiver services are temporary, effective immediately, and necessary to respond to managing the COVID-19 outbreak.

(a) Limits to the number of respite hours a client may receive that are generated in the CARE assessment are temporarily suspended. The amount of respite hours a client may receive are determined by DDA.

(b) The basic plus, CIIBS, and individual and family services waiver aggregate budgets may be exceeded for COVID-19-related health and safety needs.

(c) Respite provided out-of-state may be provided in excess of thirty days.

(d) Community guide and community engagement may be provided to more than one client at a time.

(e) Staff and family consultation may be provided to more than one client at a time.

(f) Specialized medical equipment and specialized equipment and supplies may be used to cover items related to health and safety, such as personal protective equipment and disinfection supplies not otherwise available through the medicaid state plan.

(g) If transportation is necessary to prevent illness or meet a client's immediate health and safety needs, waiver transportation services may be used to travel to a place where the client will not be receiving waiver services (e.g., transportation to a family member's home).

(h) All waiver services except respite and goods may be offered remotely by providers when travel to the waiver participant is not possible due to COVID-19 infection or exposure.

(3) If a client is displaced from their home because of quarantine or hospitalization, or if a provider is unavailable due to illness or business closure, the following waiver services may be provided in a hotel, shelter, church, other facility-based setting, or the home of a direct-care worker when those supports are not available through the medicaid state plan or another legally liable funding source:

(a) Residential habilitation;

(b) Respite care;

(c) Positive behavior support;

(d) Staff and family consultation;

(e) Behavioral health stabilization- positive behavior support;

(f) Behavioral health stabilization- crisis diversion beds;

(g) Nurse delegation; and

(h) Skilled nursing.

(4) Positive behavior support and staff and family consultation may be provided in an acute care setting such as a hospital or short-term institutional setting if:

(a) DDA determines that no other alternatives are available and a nonintegrated setting is the only setting available to meet the client's health and safety needs;

(b) The waiver service provider is not otherwise funded by another resource; and

(c) The waiver services do not duplicate services already available in that setting.

(5) The following changes to waiver service provider qualifications are temporary, effective immediately, and necessary to respond to managing the COVID-19 outbreak.

(a) Staff and family consultation may include emergency preparedness consultation support from a provider trained in emergency management or a similar field with a current DDA contract.

(b) Respite care may be provided by currently contracted positive behavior support providers.

(6) Specialized medical equipment and supply, specialized equipment and supply, and assistive technology provider

types may include the use of a purchase card and community choice guides when supply or cost impacts occur due to COVID-19.

(7) The following changes to level-of-care evaluations and re-evaluations for waiver participants are temporary, effective immediately, and necessary to respond to managing the COVID-19 outbreak.

(a) A client's services may continue and the level-of-care reassessment may be postponed up to one year on a case-by-case basis if due to illness or quarantine:

(i) The client, their representative, or a DDA employee are unable to participate in the reassessment; or

(ii) There is insufficient time for the case manager to complete the annual reassessment paperwork.

(b) On a case-by-case basis, the time limit for approving a client's expired person-centered service plan may be extended if:

(i) The plan currently meets the client's; and

(ii) Monthly remote or telephonic monitoring is provided to ensure the plan continues to meet the client's needs.

(c) Telephonic assessments may occur in place of face-to-face assessments on a case-by-case basis. An initial assessment may be conducted telephonically when needed to prevent exposure related to COVID-19.

(d) For initial CARE assessments, employees may complete the assessment and person-centered service plan via the telephone or other electronic means and then do a brief in-person visit before moving the assessment to current.

(e) If the previsit questionnaire response indicates it is not safe to do an in-person visit, services can be authorized prior to an in-person visit occurring.

(f) All initial CARE assessments may be sparse; however, mandatory fields must be completed with the information necessary to complete a minimal care plan.

(g) Annual assessment inter-rater reliability monitoring may be postponed up to one year if workforce is limited or the client's household is impacted by COVID-19.

(h) A person-centered service plan, or revisions to a person-centered service plan, may be approved with a retroactive approval date for service needs identified to mitigate harm or risk directly related to COVID-19 impacts. Telephonic (or other information technology medium) assessments may occur when the assessment cannot occur due to impacts of COVID-19.

(8) CIIBS quarterly face-to-face meetings may be provided telephonically when a face-to-face meeting cannot occur due to client or client representative health concerns or staffing availability.

relate to expanding shared work to make it available for more employers and more employees.

Citation of Rules Affected by this Order: Repealing WAC 192-250-015; and amending WAC 192-250-020 and 192-250-045.

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 2, Repealed 1.

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

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

Date Adopted: March 25, 2020.

Dan Zeitlin  
Employment Security Policy Director

AMENDATORY SECTION (Amending WSR 13-24-016, filed 11/21/13, effective 12/22/13)

**WAC 192-250-020 What are the criteria for having a shared work plan approved?** In addition to the criteria listed in RCW 50.60.030, employers must:

(1) ~~((Be current in the payment of all unemployment insurance taxes required under Title 50 RCW, or be current on an approved deferred payment contract on file with the department;~~

~~((2)))~~ Include their ESD number on the plan application; and

~~((3)))~~ (2) Designate a representative to be a liaison between the department and the employees who participate in the shared work plan.

AMENDATORY SECTION (Amending WSR 13-24-016, filed 11/21/13, effective 12/22/13)

**WAC 192-250-045 Who is not eligible for participation in the shared work program?** ~~((+))~~ The following

## WSR 20-08-057

### EMERGENCY RULES

#### EMPLOYMENT SECURITY DEPARTMENT

[Filed March 25, 2020, 3:24 p.m., effective March 25, 2020, 3:24 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

employees are not eligible for participation in the shared work program:

~~((a)) (1) Employees paid on any basis other than hourly wage. This includes, but is not limited to, employees paid on a piece rate, mileage rate, job rate, salary, or commission basis. The commissioner may waive this provision for employees paid as listed above if an hourly rate of pay can be established((, except that salaried employees may participate only if they are eligible for paid overtime)).~~

~~((b)) (2) Officers of the corporation that is applying for participation.~~

~~((c)) (3) Seasonal employees during the off season.~~

~~((2) The following businesses are not eligible for participation in the shared work program:~~

~~(a) For weeks of benefits paid before July 1, 2012, and after June 28, 2015, businesses with a tax rate of 5.4 percent or more, not including the social cost factor rate and taxes under RCW 50.24.010 and 50.24.014.~~

~~(b) Nonqualified employers, meaning employers who have reported no payroll for four consecutive quarters.~~

~~(c) Employers not registered in Washington for six months prior to application.))~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-250-015 When is an employer eligible to participate in the shared work program?

**WSR 20-08-060**  
**RECISSION OF EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed March 25, 2020, 4:13 p.m.]

The department of children, youth, and families rescinds WSR 20-08-044, emergency WAC 110-06-0040 and 110-06-0046 and the emergency repealer for WAC 110-06-0044.

Brenda Villarreal  
Rules Coordinator

**WSR 20-08-061**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-53—Filed March 25, 2020, 5:46 p.m., effective March 25, 2020, 11:59 p.m.]

Effective Date of Rule: March 25, 2020, 11:59 p.m.

Purpose: Amend personal use fishing and shellfish rules.

Citation of Rules Affected by this Order: New WAC 220-310-00100A, 220-311-00100A, 220-312-00100A, 220-313-00100A, 220-314-00100A, 220-315-00100A, 220-316-00100A, 220-320-00100A, and 220-330-00100A.

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

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

Reasons for this Finding: The Washington department of fish and wildlife is closing all recreational fisheries under its management statewide as part of an effort to help slow the spread of the COVID-19 coronavirus. This decision to close all freshwater and saltwater fisheries is necessary to comply with Governor Inslee's recent statewide proclamation for all Washingtonians to stay at home for the next two weeks.

The closures of recreational fisheries for fish and shellfish in all waters are in effect until further notice, or until they expire pursuant to RCW 34.05.350. Statewide recreational closures will include fisheries in all marine areas, including Washington's coastal areas and Puget Sound. Columbia River fisheries under Washington's jurisdiction will also be closed, as well as other river fisheries and those in lakes, streams, reservoirs, and beaver ponds throughout the state.

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 9, Amended 0, Repealed 0.

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

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

Date Adopted: March 25, 2020.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-310-00100A Personal-use fisheries—General rules—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.350, all recreational fish and shellfish seasons encompassed in Chapter 220-310 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-311-00100A Personal-use fisheries—Marine specific rules—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to

RCW 34.05.350, all recreational fishing seasons encompassed in Chapter 220-311 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-312-00100A Personal-use fisheries—Freshwater specific rules—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.350, all recreational fishing seasons encompassed in Chapter 220-312 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-313-00100A Personal-use fisheries—Salmon—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.350, all recreational fishing seasons encompassed in Chapter 220-313 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-314-00100A Personal-use fisheries—Halibut and bottomfish—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.350, all recreational fish and shellfish seasons encompassed in Chapter 220-314 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-315-00100A Personal-use fisheries—Forage fish—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.-350, all recreational fish and shellfish seasons encompassed in Chapter 220-315 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-316-00100A Personal-use fisheries—Sturgeon—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.-350, all recreational fish and shellfish seasons encompassed in Chapter 220-316 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-320-00100A Shellfish—Definitions, classifications and general rules—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.350, all recreational fish and shellfish seasons encompassed in Chapter 220-320 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

#### NEW SECTION

**WAC 220-330-00100A Personal-use shellfish—Closure** Effective 11:59 p.m. March 25, 2020 until further notice, or until they expire pursuant to RCW 34.05.350, all recreational fish and shellfish seasons encompassed in Chapter 220-330 WAC are closed.

All emergency rules opening any other fishery in this chapter are hereby suspended until the expiration date of the emergency rule or until further notice.

### **WSR 20-08-065**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 20-52—Filed March 26, 2020, 9:55 a.m., effective March 26, 2020, 9:55 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Washington department of fish and wildlife is amending WAC 220-400-050 to extend the deadline for sealing bobcat and river otter pelts to July 20, 2020.

Citation of Rules Affected by this Order: Amending WAC 220-400-050.

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

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: Washington department of fish and wildlife offices are closed to the public during the COVID-19 threat. Therefore, to protect the public and our staff, we are extending the deadline for sealing 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 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 26, 2020.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-400-05000A Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat.** Notwithstanding the provisions of WAC 220-400-050, effective immediately, until further notice:

(1) It is unlawful to possess river otter, cougar, lynx, or bobcat taken in Washington unless it has a department identification seal attached to the raw pelt, on or off the carcass.

(2) The raw pelt of a bobcat or river otter must be presented to an authorized department employee, or authorized individual under permit with the department, for sealing and the associated harvest report must be submitted to the department by July 20th after the close of the appropriate hunting or trapping season in which it was killed.

#### **WSR 20-08-071**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF LICENSING**

[Filed March 26, 2020, 1:07 p.m., effective March 27, 2020]

Effective Date of Rule: March 27, 2020.

Purpose: The department of licensing is adopting emergency rule making to allow for remote notarization in Washington state. This rule making will remain in effect for the duration of the emergency directive issued by the governor. The department filed notice for permanent rule making regarding SB 5641 under WSR 20-06-073, interested stakeholders can participate in the rule-making process for the permanent rules under that order.

Citation of Rules Affected by this Order: Amending chapter 308-30 WAC, Notaries public.

Statutory Authority for Adoption: RCW 42.45.250.

Other Authority: Proclamation by the Governor 20-27 Electronic Notary Effective Date.

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

Reasons for this Finding: The emergency rule is to decrease in-person notarization to assist with COVID-19 response efforts, allowing remote notarization in Washington 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 1, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: March 26, 2020.

Damon Monroe  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-020 Definitions.** Words and terms used in these rules have the same meaning as in the Revised Uniform Law on Notarial Acts, RCW 42.45.010.

"Appear personally" means:

(a) Being in the same physical location as another individual and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(b) For remote notarial acts, being in a different physical location from another individual but able to see, hear, and communicate with that individual by means of communication technology.

"Commission" is equivalent to the term "license" as defined in RCW 18.235.010(6).

"Department" means the Washington state department of licensing.

"Director" means the director of the department of licensing or the director's designee.

"Electronic journal" means a chronological record of notarizations maintained by a notary public in an electronic format in compliance with these rules.

"Electronic notarial acts" means notarizations or notarial acts with respect to electronic records.

"Electronic notarial certificate" means the part of, or attachment to, an electronic record that is completed by the notary public, contains the information required under RCW 42.45.130 and the notary's official stamp, bears that notary's electronic signature, and states the facts attested to by the notary in a notarization performed on an electronic record.

"Enroll" and "enrollment" mean a process for registering a notary public with a technology provider to access and use a tamper-evident technology in order to perform electronic notarial acts.

"Principal" means:

(a) An individual whose electronic signature is notarized; or

(b) An individual, other than a witness required for an electronic notarial act, taking an oath or affirmation from the notary public.

"Remote notarial act" means a notarization that is performed electronically using approved audio-video technology that allows for direct interaction between the notary and the individuals that are remotely located.

"Sole control" means at all times being in the direct physical custody of the notary public or safeguarded by the notary with a password or other secure means of authentication.

"Tamper-evident technology" means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform electronic notarial acts and to display evidence of any changes made to an electronic record.

"Technology provider" means an individual or entity that offers the services of a tamper-evident technology for electronic notarial acts.

"Venue" means the state and county where the notary public is physically located while performing a notarial act.

**AMENDATORY SECTION** (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-030 Application process for notary public commission.** (1) To apply for a notary public commission, an applicant who meets the requirements of RCW 42.45.200(2) shall submit an application on forms provided by the department. The application shall include:

- (a) Evidence of a ten thousand dollar surety bond, signed by the notary public, that conforms to RCW 42.45.200(4);
- (b) Payment of the prescribed fee; and
- (c) A signed and notarized oath of office.

(2) As part of a notary public commission application, an applicant shall provide both their legal name and their commission name. The applicant's commission name must contain their surname, and at least the initials of the applicant's first and middle name.

(3) To apply for an electronic records notary public endorsement, an applicant who meets the requirements of RCW 42.45.200(7) shall submit an electronic records notary public application on forms provided by the department and pay the prescribed fee.

(4) An applicant may only apply for an electronic records notary public endorsement if:

- (a) They currently hold an active notary public commission; or
- (b) They are applying for a notary public commission and an electronic records notary public endorsement simultaneously.

(5) An individual applying for an electronic records notary public endorsement must inform the department within thirty days of applying of the tamper-evident technology provider that they have enrolled with before they perform their first electronic notarial act.

(6) To apply for a remote notary endorsement, an electronic records notary public shall submit a remote notary endorsement application on forms provided by the department.

(7) An applicant may only apply for a remote notary endorsement if:

(a) They currently hold an active notary public commission and with an electronic records notary public endorsement;

(b) They currently hold an active notary public commission, and are applying for an electronic records notary public endorsement and a remote notary endorsement simultaneously; or

(c) They are applying for a notary public commission, an electronic records notary public endorsement, and a remote notarial acts endorsement simultaneously.

(8) A notary public shall reapply with the department for each commission term before performing notarial acts.

~~((7))~~ (9) A notary public may elect not to apply for an electronic records notary public endorsement or a remote notary endorsement.

**AMENDATORY SECTION** (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-040 Approval or denial of application.**

(1) Upon ~~((the))~~ an applicant's fulfillment of the requirements for a notary public commission ~~((or))~~ and/or an electronic records notary public endorsement, a remote notary endorsement, the department shall approve the application and issue the notary public commission ~~((or))~~ along with any endorsements.

(2) If the department receives an incomplete or invalid application, the department shall hold the application for thirty calendar days to allow the applicant to cure any defects. After the thirty day period, the application shall be canceled and any application fees forfeited.

(3) An applicant may not perform any notarial acts in person, electronically, or remotely before receiving a notary public commission from the department.

~~((A notary public may not perform any electronic notarial acts before receiving an electronic records notary public endorsement from the department.~~

~~((5))~~ The department may deny a commission or endorsement application if the applicant fails to comply with these rules or does not meet the requirements for licensure.

**AMENDATORY SECTION** (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-050 Term of commission.** (1) The term of a notary public commission shall expire on the expiration date of the notary public's surety bond, no more than four years after their commission date.

(2) Unless terminated pursuant to WAC 308-30-270, an electronic records notary public endorsement ~~((is))~~ and the remote notary endorsement are valid from the date the endorsement is issued by the department, and continues as long as the notary public's current commission remains valid.

**AMENDATORY SECTION** (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-150 Completion of electronic notarial certificate.** (1) For every electronic notarial act and remote notarial act, a notary public shall complete an electronic

notarial certificate that complies with the requirements of these rules, RCW 42.45.130 and 42.45.140.

(2) An electronic notarial certificate shall be completed at the time of notarization and in the ~~((physical))~~ presence of the principal.

**AMENDATORY SECTION** (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-220 Fees for notarial acts.** (1) The maximum fees a notary may charge for notarial acts are:

Notarial Act	Fee
Witnessing or attesting a signature	\$10.00
Taking an acknowledgment or a verification upon oath or affirmation	\$10.00
Certifying or attesting a copy	\$10.00
Administering an oath or affirmation	\$10.00
Certifying that an event has occurred or an act has been performed	\$10.00

(2) A notary public need not charge for notarial acts.

(3) A notary public may not charge fees for receiving or noting a protest of a negotiable instrument.

(4) A notary public may additionally charge the actual costs of copying any instrument or record.

(5) A notary public may charge a travel fee when traveling to perform a notarial act if:

(a) The notary public and the individual requesting the notarial act agree upon the travel fee in advance of the travel; and

(b) The notary public explains to the individual requesting the notarial act that the travel fee is in addition to the notarial fee in subsection (1) of this section and is not required by law.

(6) Notwithstanding the maximum fees set forth in subsection (1) of this section and the prohibition set forth in subsection (3) of this section, a notary public may charge a maximum fee of twenty-five dollars to perform a remote notarial act.

**AMENDATORY SECTION** (Amending WSR 18-12-028, filed 5/29/18, effective 7/1/18)

**WAC 308-30-270 Termination or suspension of commission or endorsement.** (1) The department may take action against the commission and/or endorsement of a notary public who fails to comply with these rules as provided in RCW 42.45.210, 42.45.270, and chapter 18.235 RCW. Any restriction, suspension, or revocation of a notary public's commission will automatically have the same effect on any endorsement the notary public holds.

(2) A notary public may terminate their notary public commission and/or electronic records endorsement or remote notary endorsement by notifying the department of this intent in writing and disposing of all or any part of a tamper-evident technology in the notary's control whose purpose was to perform electronic notarizations.

(3) A notary public may terminate the electronic records notary public endorsement or the remote notary endorsement and maintain the underlying notary public commission.

(4) A notary public whose commission is terminated or expired, either by the notary or the department, shall disable their official stamp by destroying, defacing, damaging, or securing the device against use. The notary shall maintain their notarial journals for ten years as required by RCW 42.45.180 and WAC 308-30-210.

**NEW SECTION**

**WAC 308-30-290 Authorized remote notarial acts.**

(1) A notary public who has received both an electronic records notary public endorsement and a remote notarial acts endorsement from the department may perform the following remote notarial acts:

(a) Taking an acknowledgment;

(b) Taking a verification on oath or affirmation;

(c) Witnessing or attesting a signature;

(d) Certifying or attesting a copy;

(e) Certifying that an event has occurred or an act has been performed; and

(f) Noting a protest of a negotiable instrument, if the notary public is:

(i) Acting under the authority of an attorney who is licensed to practice law in this state or another state; or

(ii) Acting under the authority of a financial institution regulated by this state, another state, or the federal government.

(2) In performing remote notarial acts, a notary public shall comply with all requirements for electronic notarial acts under this chapter.

**NEW SECTION**

**WAC 308-30-300 Standards for identity proofing.** (1)

In performing remote notarial acts, if a notary public does not have satisfactory evidence of the identity of a remotely located individual under subsection (4) of this section, the notary public must reasonably verify the individual's identity through two different types of identity proofing consisting of a credential analysis procedure and a dynamic knowledge-based authentication assessment as provided in subsections (2) and (3) of this section.

(2) Credential analysis must use public or private data sources to confirm the validity of the identification credential presented by a remotely located individual and shall, at a minimum:

(a) Use automated software processes to aid the notary public in verifying the identity of each remotely located individual;

(b) Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

(c) Use information held or published by the issuing source or an authoritative source, as available and consistent

with sound commercial practices, to confirm the validity of personal details and identification credential details; and

(d) Enable the notary public visually to compare for consistency the information and photograph on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

(3) A dynamic knowledge-based authentication assessment is successful if it meets the following requirements:

(a) The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;

(b) Each question must have a minimum of five possible answer choices;

(c) At least eighty percent of the questions must be answered correctly;

(d) All questions must be answered within two minutes;

(e) If the remotely located individual fails the first attempt, the individual may retake the quiz one time within twenty-four hours;

(f) During a retake of the quiz, a minimum of forty percent of the prior questions must be replaced;

(g) If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same online notary public within twenty-four hours of the second failed attempt; and

(h) The notary public must not be able to see or record the questions or answers.

(4) A notary public has satisfactory evidence of the identity of a remotely located individual if:

(a) The notary public has personal knowledge of the identity of the individual; or

(b) The individual is identified by oath or affirmation of a credible witness in accordance with the following requirements:

(i) To be a credible witness, the witness must have personal knowledge of the remotely located individual;

(ii) The notary public must have personal knowledge of the credible witness or verify the identity of the credible witness by two different types of identity proofing in accordance with subsections (1), (2), and (3) of this section; and

(iii) A credible witness may be outside the physical presence of the notary public or remotely located individual if the notary public, credible witness, and remotely located individual can communicate by using communication technology.

NEW SECTION

**WAC 308-30-310 Standards for communication technology.** (1) Communication technology for remote notarial acts must provide for synchronous audio-visual feeds of sufficient audio clarity and video resolution to enable the notary public and remotely located individual to see and speak with each other. The process must provide a means for the notary public reasonably to confirm that an electronic record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

(2) Communication technology must provide reasonable security measures to prevent unauthorized access to:

(a) The live transmission of the audio-visual feeds;

(b) The methods used to perform identify verification; and

(c) The electronic record that is the subject of the remote notarial act.

(3) If a remotely located individual must exit the workflow, the individual must restart the identify verification process required under WAC 308-30-300 from the beginning.

NEW SECTION

**WAC 308-30-320 Certificate of notarial act for remote notarial acts.** (1) A form of notarial certificate for a remote notarial act satisfies the requirement of RCW 42.45.280(4) and 42.45.130 (1)(g) if it is in the form provided by applicable law and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(2) A short form of acknowledgment prescribed in RCW 42.45.140 satisfies the requirement of RCW 42.45.280(4) and 42.45.130 (1)(g) if it is in substantially one of the following forms for the purposes indicated:

(a) For an acknowledgment in an individual capacity:

State of Washington  
County of .....

This record was acknowledged before me by means of communication technology on (date) by (name(s) of individuals).

.....  
(Signature of notary public)

Notary Public

(Electronic official  
stamp)

(My commission expires: . . . .)

(b) For an acknowledgment in a representative capacity:

State of Washington  
County of .....

This record was acknowledged before me by means of communication technology on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom the instrument was executed).

.....  
(Signature of notary public)

Notary Public

(Electronic official  
stamp)

(My commission expires: . . . .)

(c) For verification on oath or affirmation:

State of Washington  
County of .....

Signed and sworn to (or affirmed) before me by means of communication technology on (date) by (name(s) of individuals making statement).

.....  
(Signature of notary public)

Notary Public

(Electronic official stamp)

(My commission expires: . . . .)

(d) For witnessing or attesting a signature:

State of Washington  
County of .....

Signed or attested before me by means of communication technology on (date) by (name(s) of individuals).

.....  
(Signature of notary public)

Notary Public

(Electronic official stamp)

(My commission expires: . . . .)

**NEW SECTION**

**WAC 308-30-330 Retention of audio-visual recordings and repositories.** (1) A notary public must retain any audio-visual recording created under RCW 42.45.280 (3)(c) in a computer or other electronic storage device that protects the recording against unauthorized access by password or other secure means of authentication. The recording must be created in an industry-standard audio-visual file format and must not include images of any electronic record that was the subject of the remote notarial act.

(2) An audio-visual recording must be retained for at least ten years after the recording is made.

(3) A notary public must take reasonable steps to ensure that a backup of the audio-visual recording exists and is secure from unauthorized use.

(4) The fact that the notary public's employer, contractor, or repository keeps or stores any audio-visual recordings shall not relieve the notary of the duties required by these rules.

(5) The personal representative or guardian of a notary public shall follow RCW 42.45.280(6) related to the disposition of the notary public's audio-visual recordings upon the death or adjudication of incompetency of the notary public.

(6) The notary public, or the notary's personal representative or guardian, shall provide access instructions to the department for any audio-visual recordings maintained or stored by the notary, upon commission resignation, revoca-

tion, or expiration without renewal, or upon the death of adjudication of incompetency of the notary.

(7) A notary public, or the notary's personal representative or guardian, may by written contract engage a third party to act as a repository to provide the storage required by this section. A third party under contract under this section shall be deemed a repository under RCW 42.45.280(6).

(8) Any contract under subsection (7) of this section must:

(a) Enable the notary public, or the notary's personal representative or guardian, to comply with the retention requirements of this section even if the contract is terminated; or

(b) Provide that the information will be transferred to the notary public, or to the notary's personal representative or guardian, if the contract is terminated.

**WSR 20-08-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed March 26, 2020, 3:08 p.m., effective March 26, 2020, 3:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-447-0005 What evidence do we consider to determine incapacity?, 388-447-0010 What medical evidence do I need to provide?, 388-447-0110 When does my eligibility for referral to the housing and essential needs (HEN) program end?, 388-449-0010 What evidence do we consider to determine disability?, 388-449-0015 What medical evidence do I need to provide?, and 388-449-0150 When does my eligibility for aged, blind, or disabled (ABD) cash benefits end?

These amendments are necessary to mitigate impacts to clients and medical providers resulting from the COVID-19 virus (commonly referred to as the "coronavirus") public health crisis.

Citation of Rules Affected by this Order: Amending WAC 388-477-0005, 388-447-0010, 388-447-0110, 388-449-0010, 388-449-0015, and 388-449-0150.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655, 74.04.770, 74.08.025, 74.08.043, 74.08.090, 74.08.335, 74.09.530, 74.08A.100.

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 mitigate client and medical provider impacts 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 02-05[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 6, Repealed 0.

Date Adopted: March 26, 2020.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 18-05-075, filed 2/20/18, effective 3/23/18)

**WAC 388-447-0005 What evidence do we consider to determine incapacity?** (1) To determine whether a medically determinable impairment exists, we consider medical evidence from "acceptable medical sources." "Acceptable medical sources" include the following:

(a) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

- (i) Medical doctor (MD);
- (ii) Doctor of osteopathy (DO);
- (iii) Doctor of optometry (OD) for visual disorders;
- (iv) Doctor of podiatry (DP) for foot and ankle disorders;
- (v) Physician assistant (PA) for impairments within their licensed scope of practice;

(vi) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(vii) Audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within their licensed scope of practice;

(viii) Qualified speech-language pathologist, for purposes of establishing speech or language impairments;

(ix) Doctor of dental surgery (DDS) or doctor of medical dentistry (DMD) for tooth abscesses or temporomandibular joint (TMJ) disorders; and

(x) Chief of staff of a U.S. Department of Veterans Affairs medical center, or their designee, as authorized in federal law.

(b) For a mental impairment, a health professional licensed in Washington state or where the examination was performed:

- (i) Psychiatrist;
- (ii) Psychologist;
- (iii) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(iv) Physician assistant (PA) for impairments within their licensed scope of practice;

(v) School psychologist or other licensed or certified individual who performs the same function as a school psychologist in a school setting for impairments of intellectual disability, learning disability, or borderline intellectual functioning;

(vi) Clinical social worker;

(vii) Mental health professional (MHP); and

(viii) Physician treating you for a mental impairment.

(2) "Supplemental medical evidence" means information from a licensed health professional who can provide supporting documentation for impairments established by an "acceptable medical source" listed in subsection (1) of this section. "Supplemental medical evidence" sources include, but are not limited to:

(a) Naturopath;

(b) Chiropractor;

(c) Physical therapist; and

(d) Chemical dependency professional (CDP) when requesting information on the effects of substance use disorders.

(3) "Other evidence" means information from sources not listed in subsections (1) and (2) of this section who can provide supporting documentation of functioning for impairments established by an "acceptable medical source" in subsection (1) of this section. Sources of "other evidence" may include public and private agencies, schools, family members, friends, caregivers, and employers.

(4) In the event of a declared state of emergency related to COVID-19, the department may accept a diagnosis of a medically determinable impairment from a "supplemental medical evidence" source in subsection (2) of this section or the predictive risk intelligence system (PRISM).

**AMENDATORY SECTION** (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-447-0010 What medical evidence do I need to provide?** You must provide medical evidence of your impairment(s) and how your impairment(s) affects your ability to perform regular and continuous work activity. Medical evidence must be in writing and be clear, objective and complete.

(1) Objective evidence for physical impairments means:

(a) Laboratory test results;

(b) Pathology reports;

(c) Radiology findings including results of X-rays and diagnostic imaging scans;

(d) Clinical findings including, but not limited to, ranges of joint motion, blood pressure, temperature or pulse; and documentation of a physical examination; or

(e) Hospital history and physical reports and admission and discharge summaries; or

(f) Other medical history and physical reports related to your current impairments.

(2) Objective evidence for mental impairments means:

(a) Clinical interview observations, including objective mental status exam results and interpretation.

(b) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of

the *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

(c) Hospital, outpatient and other treatment records related to your current impairments.

(d) Testing results, if any, including:

(i) Description and interpretation of tests of memory, concentration, cognition or intelligence; or

(ii) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.

(3) Medical evidence sufficient for an incapacity determination must be from a medical professional described in WAC 388-447-0005 and must include:

(a) A diagnosis for the impairment, or impairments, based on an examination performed within five years of application;

(b) A clear description of how the impairment relates to your ability to perform the work-related activities listed in WAC 388-447-0001; and

(c) Documentation of how the impairment, or impairments, is currently limiting your ability to work based on an examination performed within ninety days of the date of application or incapacity review. In the event of a declared state of emergency related to COVID-19, the department may accept functional medical evidence beyond ninety days of the date of application or incapacity review, or otherwise waive this requirement in its entirety.

(4) We consider documentation in addition to objective evidence to support the medical evidence provider's opinion that you are unable to perform substantial gainful employment, such as proof of hospitalization.

(5) If you can't obtain medical evidence sufficient for us to determine if you are incapacitated without cost to you, and you meet the other eligibility conditions defined in WAC 388-447-0001, we pay the costs to obtain objective evidence based on our published payment limits and fee schedules.

AMENDATORY SECTION (Amending WSR 13-24-044, filed 11/26/13, effective 1/1/14)

**WAC 388-447-0110 When does my eligibility for referral to the housing and essential needs (HEN) program end?** (1) If we determine you are incapacitated and you meet the eligibility requirements in WAC 388-400-0070, you are eligible for referral to the housing and essential needs (HEN) program for a maximum period of twelve months. This is your incapacity authorization period.

(2) Your HEN referral eligibility stops at the end of your incapacity authorization period unless you provide current medical evidence that demonstrates there was no material improvement in your impairment. No material improvement means that your impairment continues to meet the incapacity criteria detailed in WAC 388-447-0001. In the event of a declared state of emergency related to COVID-19, the department may postpone review of your HEN referral program eligibility beyond the twelve month period if the department determines you are not eligible for the aged, blind, or disabled (ABD) program at the time of your incapacity review. The postponement of this review may occur retroactively to

the date the governor declares a state of emergency related to COVID-19.

(3) The medical evidence must meet the criteria defined in WAC 388-447-0010.

(4) We use medical evidence received after your incapacity authorization period has ended when:

(a) The delay was not due to your failure to cooperate;

(b) We receive the evidence within thirty days of the end of your incapacity authorization period; and

(c) The evidence meets the incapacity criteria in WAC 388-447-0001.

(5) Even if your condition has not improved, you aren't eligible for referral to the HEN program when:

(a) We receive current medical evidence that doesn't meet the incapacity criteria in WAC 388-447-0001; or

(b) We determine the prior decision that your condition met incapacity requirements was incorrect because:

(i) The information we had was incorrect or not enough to show incapacity; or

(ii) We didn't apply the rules correctly to the information we had at that time.

AMENDATORY SECTION (Amending WSR 18-05-075, filed 2/20/18, effective 3/23/18)

**WAC 388-449-0010 What evidence do we consider to determine disability?** (1) To determine whether a medically determinable impairment exists, we consider medical evidence from "acceptable medical sources." "Acceptable medical sources" include the following:

(a) For a physical impairment, a health professional licensed in Washington state or where the examination was performed:

(i) Medical doctor (MD);

(ii) Doctor of osteopathy (DO);

(iii) Doctor of optometry (OD) for visual disorders;

(iv) Doctor of podiatry (DP) for foot and ankle disorders;

(v) Physician assistant (PA) for impairments within their licensed scope of practice;

(vi) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(vii) Audiologist for impairments of hearing loss, auditory processing disorders, and balance disorders within their licensed scope of practice; and

(viii) Qualified speech-language pathologist, for purposes of establishing speech or language impairments.

(b) For a mental impairment, a health professional licensed in Washington state or where the examination was performed:

(i) Psychiatrist;

(ii) Psychologist;

(iii) Advanced registered nurse practitioner (ARNP) for impairments within their licensed scope of practice;

(iv) Physician assistant (PA) for impairments within their licensed scope of practice; and

(v) School psychologist or other licensed or certified individual who performs the same function as a school psychologist in a school setting for impairments of intellectual disability, learning disability, or borderline intellectual functioning.

(2) We accept medical evidence of how your impairment(s) affect your ability to function from "treating medical sources" once a diagnosis of a medically determinable impairment has been established by an "acceptable medical source" listed in subsection (1) of this section. "Treating medical sources" must be licensed to provide healthcare and include, but are not limited to:

- (a) Physician treating you for a mental impairment;
- (b) Clinical social worker;
- (c) Mental health professional (MHP);
- (d) Naturopath;
- (e) Chiropractor;
- (f) Physical therapist; and
- (g) Chemical dependency professional (CDP) when requesting information on the effects of substance use disorders.

(3) "Other evidence" means information from sources not listed in subsections (1) and (2) of this section who can provide supporting documentation of functioning for impairments established by an "acceptable medical source" in subsection (1) of this section. Sources of "other evidence" may include public and private agencies, schools, family members, friends, caregivers, and employers.

(4) In the event of a declared state of emergency related to COVID-19, the department may accept a diagnosis of a medically determinable impairment from a "treating medical source" in subsection (2) of this section or the predictive risk intelligence system (PRISM).

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

**WAC 388-449-0015 What medical evidence do I need to provide?** You must give us medical evidence of your impairment(s) and how they affect your ability to perform regular and continuous work activity. Medical evidence must be in writing and be clear, objective, and complete.

- (1) Objective evidence for physical impairments means:
  - (a) Laboratory test results;
  - (b) Pathology reports;
  - (c) Radiology findings including results of X-rays and computer imaging scans;
  - (d) Clinical findings, including but not limited to ranges of joint motion, blood pressure, temperature or pulse, and documentation of a physical examination; and
  - (e) Hospital history and physical reports and admission and discharge summaries; or
  - (f) Other medical history and physical reports related to your current impairments.
- (2) Objective evidence for mental impairments means:
  - (a) Clinical interview observations, including objective mental status exam results and interpretation.
  - (b) Explanation of how examination findings meet the clinical and diagnostic criteria of the most recent edition of the diagnostic and statistical manual of mental disorders (DSM).
  - (c) Hospital, outpatient and other treatment records related to your current impairments.
  - (d) Testing results, if any, including:

- (i) Description and interpretation of tests of memory, concentration, cognition or intelligence; or

- (ii) Interpretation of medical tests to identify or exclude a connection between the mental impairment and physical illness.

(3) Medical evidence sufficient for a disability determination must be from a medical professional described in WAC 388-449-0010 and must include:

- (a) A diagnosis for the impairment, or impairments, based on an examination performed by an acceptable medical source defined in WAC 388-449-0010 within five years of application;

- (b) A clear description of how the impairment relates to your ability to perform the work-related activities listed in WAC 388-449-0005;

- (c) Documentation of how long a condition has impaired your ability to perform work related activities;

- (d) A prognosis, or written statement of how long an impairment will impair your ability to perform work related activities; and

- (e) A written statement from a medical professional (defined in WAC 388-449-0010) describing what you are capable of doing despite your impairment (medical source statement) based on an examination performed within ninety days of the date of application or forty-five days before the month of disability review. In the event of a declared state of emergency related to COVID-19, the department may accept functional medical evidence beyond ninety days of the date of application or forty-five days before the month of disability review, or otherwise waive this requirement in its entirety.

(4) We consider documentation in addition to objective evidence to support the acceptable medical source or treating provider's opinion that you are unable to perform substantial gainful employment, such as proof of hospitalization.

(5) When making a disability decision, we don't use your report of symptoms as evidence unless objective evidence shows there is an impairment that could reasonably be expected to produce those symptoms.

(6) We don't use symptoms related to substance abuse or a diagnosis of chemical dependency when determining disability if we have evidence substance use is material to your impairment(s).

(7) We consider substance use to be material to your impairment(s) if you are disabled primarily because of drug or alcohol abuse or addiction.

(8) If your impairment will persist at least sixty days after you stop using drugs or alcohol, we do not consider substance use to be material to your impairment.

(9) If you can't obtain medical evidence sufficient for us to determine if you are likely to be disabled without cost to you, and you meet the other eligibility conditions in WAC 388-400-0060, we pay the costs to obtain objective evidence based on published payment limits and fee schedules.

(10) We determine the likelihood of disability based solely on the objective information we receive. We are not obligated to accept another agency's or person's decision that you are disabled or unemployable.

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

**WAC 388-449-0150 When does my eligibility for aged, blind, or disabled (ABD) cash benefits end?** (1) The maximum period of eligibility for ABD cash is twenty-four months before we must review additional medical evidence. If you remain on ABD cash at the end of the twenty-four month period, we determine your eligibility using current medical evidence. In the event of a declared state of emergency related to COVID-19, the department may postpone review of your ABD cash eligibility beyond the twenty-four month period. The postponement of this review may occur retroactively to the date the governor declares a state of emergency related to COVID-19.

(2) If your application for SSI is denied:

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

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

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

### WSR 20-08-083

#### EMERGENCY RULES

#### LIQUOR AND CANNABIS BOARD

[Filed March 27, 2020, 1:33 p.m., effective March 27, 2020, 1:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?, the Washington state liquor and cannabis board (board/WSLCB) has adopted an emergency rule to amend WAC 314-02-109 that provides a retroactive waiver of penalties for taxes that become due under RCW 66.24.630 and 66.28.370 while Proclamation 20-13 is in effect.

Citation of Rules Affected by this Order: Amending WAC 314-02-109.

Statutory Authority for Adoption: RCW 66.24.630, 66.28.370, 66.08.0501.

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

Reasons for this Finding: On February 29, 2020, Governor Inslee issued Proclamation 20-05 that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington state, and proclaimed a State of Emergency for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.

On March 16, 2020, Governor Inslee issued Proclamation 20-13 that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities

for disease exposure and transmission in the state. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from two hundred fifty persons to fifty persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.

The board administers licensing, enforcement and education services for establishments that sell alcohol for on and off premises consumption. Consistent with statute, regulation and administrative provisions, licensees under the administration of the board are subject to various taxes and fees dependent on product and license type. Licensees are required to timely report and remit those taxes and fees to the board. If the board determines that a licensee is delinquent in reporting or remitting any of the required taxes and fees, including any penalties on required taxes, the board may suspend, or deny renewal or issuance of a license.

All entities and license types under the authority of the board have been adversely impacted by the COVID-19 pandemic, and enforcing statutes and rules related to these entities and license types affects the ability of these entities to maintain and sustain operations while effectively participating in combating the spread of COVID-19.

The board has the authority under RCW 66.24.630 and 66.28.370 to both assess and waive penalties for spirits retail licenses. This emergency rule:

- Provides a waiver of penalties, retroactive to February 29, 2020, for taxes that become due while Governor's Proclamation 20-13 is in effect;
- Supports the ability of businesses to adjust to the COVID-19 outbreak; and
- Reduces economic hardships suffered by businesses during the temporary suspension of business consistent with Governor's Proclamation 20-13.

This rule does **not** relieve any WSLCB licensee from its statutory obligation to remit taxes to the WSLCB.

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 27, 2020.

Jane Rushford  
Board Chair

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

**WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?**

(1) A **spirits retailer** must submit quarterly reports and payments to the board.

The required reports must be:

- (a) On a form furnished by the board;
- (b) Filed every quarter, including quarters with no activity or payment due;
- (c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and
- (d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board as required in subsection (1) of this section will be sufficient grounds for the board to suspend or revoke the liquor license.

Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board for two consecutive quarters will be sufficient grounds for the board to revoke the liquor license.

A penalty of one percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor and cannabis board, or designee, will be used to determine if penalties are to be assessed.

(3) Subsection (2) of this section is waived, retroactive to February 29, 2020, while Governor's Proclamation 20-13 is in effect.

**WSR 20-08-084  
EMERGENCY RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed March 27, 2020, 1:38 p.m., effective March 27, 2020, 1:38 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late?, the Washington state liquor and cannabis board (board/WSLCB) has adopted an emergency rule to amend WAC 314-19-020 that provides a retroactive waiver of late filing penalty provisions for taxes that become due under RCW 66.24.210 and 66.24.290 while Proclamation 20-26 is in effect.

Citation of Rules Affected by this Order: Amending WAC 314-19-020.

Statutory Authority for Adoption: RCW 66.24.210, 66.24.290, 66.08.0501.

Other Authority: Governor's Proclamation 20-26, dated March 24, 2020.

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

Reasons for this Finding: On February 29, 2020, Governor Inslee issued Proclamation 20-05 that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington state, and proclaimed a State of Emergency for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.

On March 16, 2020, Governor Inslee issued Proclamation 20-13 that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities for disease exposure and transmission in the state. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from two hundred fifty persons to fifty persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.

Establishments licensed by the board and subject to the restrictions of Proclamation 20-13 are required to timely remit various taxes and fees by a date certain [date], or a mandatory late payment penalty will be imposed. As a result of the COVID-19 pandemic, many of these establishments are suffering significant economic hardships and in some cases, their financial resources are becoming severely limited. While the board possesses authority to waive penalties for late payment of taxes by specific types of establishments it licenses, it lacked the authority to provide the same relief to microbreweries, domestic breweries, and beer distributors licensed under RCW 66.24.290, and wineries and wine distributors licensed under RCW 66.24.210.

Governor's Proclamation 20-26 found that strict compliance with the statutory obligations or limitations provided in RCW 66.24.210 and 66.24.290 will prevent, hinder, or delay action in providing relief to the businesses impacted by these statutes. Such relief is necessary for coping with the COVID-19 State of Emergency under Proclamation 20-05.

This emergency rule accomplishes the following:

- Waives late filing penalty provisions, retroactive to February 29, 2020, for microbreweries, domestic breweries, and beer distributors licensed under RCW 66.24.290, and wineries and wine distributors licensed under RCW 66.24.210 while Governor's Proclamation 20-13 and 20-26 are in effect;
- Supports the ability of businesses to adjust to the COVID-19 outbreak; and
- Reduces economic hardships suffered by businesses during the temporary suspension of business under Governor's Proclamation 20-13.

This rule does **not** relieve any WSLCB licensee from its statutory obligation to remit taxes to the WSLCB.

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 27, 2020.

Jane Rushford  
Board Chair

**AMENDATORY SECTION** (Amending WSR 14-12-101, filed 6/4/14, effective 7/5/14)

**WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late?** The board may take the following actions against a licensee or permit holder in order to collect any of the reports or taxes due that are outlined in this title.

(1) <b>Suspension or revocation of license</b>	<p>(a) Failure to make a report and/or pay the taxes in the manner and dates outlined in this chapter will be sufficient ground for the board to suspend or revoke a liquor license, wine shipper permit, or certificate of approval (per RCW 66.08.150, 66.24.010, 66.24.120, 66.24.206, 66.20.370, 66.20.380, and 66.24.270).</p> <p>(b) The suspension will remain in effect until all missing reports and/or taxes have been filed with the board (see WAC 314-19-010(1) for the definition of "missing").</p>
(2) <b>Penalties</b>	<p>A penalty of two percent per month will be assessed on any tax payments postmarked after the twentieth day of the month following the reporting period of the transactions (per the reporting requirements outlined in WAC 314-19-015, RCW 66.24.290, and 66.24.210). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.</p>
(3) <b>Surety bond requirements</b>	<p>(a) <b>What is a surety bond?</b> A "surety bond" is a type of insurance policy that guarantees beer and/or wine tax payment to the state. The surety bond must be:</p> <p>(i) Executed by a surety company authorized to do business in the state of Washington;</p>

	<p>(ii) On a form and in an amount acceptable to the board;</p> <p>(iii) Payable to the Washington state liquor control board; and</p> <p>(iv) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.24.210 and/or 66.24.290.</p> <p>(v) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division.</p> <p><b>(b) When will the board require a surety bond?</b> The board may require a surety bond from a Washington beer and/or wine distributor, domestic microbrewery, domestic brewery, public house, domestic winery, wine shipper, or a beer or wine certificate of approval holder that has a direct shipment privilege. If any of the following occur, the board may require the licensee or permit holder to obtain a surety bond or assignment of savings account, within twenty-one days after an administrative violation notice is issued:</p> <p>(i) A report or tax payment is missing, as defined in WAC 314-19-010, for two or more consecutive months; or</p> <p>(ii) A report or tax payment is missing, as defined in WAC 314-19-010, two or more times within a two year period.</p> <p><b>(c) What will happen if the licensee does not acquire the surety bond or savings account?</b> Failure to meet the bonding or savings account requirements outlined in subsections (a) and (b) of this rule may result in immediate suspension of license privileges until all missing reports are filed and late taxes have been paid and the surety bond is acquired or the savings account is established.</p> <p><b>(d) In what amount and for how long will the board require a surety bond?</b> The amount of a surety bond or savings account required by this chapter must be either \$3,000, or the total of the highest four months' worth of tax liability for the previous twelve month period, whichever is greater.</p> <p>(i) The licensee or permit holder must maintain the bond for at least two years. After the two year period the licensee or permit holder may request an exemption as outlined in subsection (f) of this rule.</p> <p>(ii) Surety bond and savings account amounts may be reviewed annually and compared to the last twelve months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee or permit holder will be required to increase the bond amount or amount on deposit within twenty-one days.</p>
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	<p>(e) <b>What action will the board take when a licensee or permit holder holds a surety bond and does not pay taxes due or pays late?</b> If a licensee or permit holder holds a surety bond or savings account, the board will immediately start the process to collect overdue taxes from the surety company or assigned account. If the exact amount of taxes due is not known due to missing reports, the board will estimate the taxes due based on previous production, receipts, and/or sales.</p> <p>(f) <b>Can a licensee or permit holder request an exemption to the surety bond or savings account requirement?</b> A licensee or permit holder may make a written request to the board's financial division for an exemption from the surety bond or assignment of savings account requirements. The board will grant an exemption once the following criteria are met:</p> <p>(i) The licensee or permit holder has filed reports and paid applicable taxes to the board for at least two years immediately prior to the exemption request; and</p> <p>(ii) There have been no late or missing reports or tax payments during the previous two years.</p> <p>(iii) In order to remain exempt from the surety bond or assignment of savings account requirements, the licensee must continue to meet the tax reporting and payment requirements outlined in this title (outlined in WAC 314-19-015, RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290, and 66.24.580).</p>
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(4) Subsections (1) and (2) of the section are waived, retroactive to February 29, 2020, while Governor's Proclamation 20-13 is in effect.

**WSR 20-08-085  
EMERGENCY RULES  
LIQUOR AND CANNABIS  
BOARD**

[Filed March 27, 2020, 1:39 p.m., effective March 27, 2020, 1:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late?, the Washington state liquor and cannabis board (board/WSLCB) has adopted an emergency rule to amend WAC 314-23-022 that provides a retroactive waiver of penalties for fees that become due under RCW 66.24.055 while Proclamation 20-13 is in effect.

Citation of Rules Affected by this Order: Amending WAC 314-23-022.

Statutory Authority for Adoption: RCW 66.24.055, 66.08.0501.

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

Reasons for this Finding: On February 29, 2020, Governor Inslee issued Proclamation 20-05 that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington state, and proclaimed a State of Emergency for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.

On March 16, 2020, Governor Inslee issued Proclamation 20-13 that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities for disease exposure and transmission in the state. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from two hundred fifty persons to fifty persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.

The board administers licensing, enforcement and education services for establishments that sell alcohol for on and off premises consumption. Consistent with statute, regulation and administrative provisions, licensees under the administration of the board are subject to various taxes and fees dependent on product and license type. Licensees are required to timely report and remit those taxes and fees to the board. If the board determines that a licensee is delinquent in reporting or remitting any of the required taxes and fees, including any penalties on required taxes, the board may suspend, or deny renewal or issuance of a license.

All entities and license types under the authority of the board have been adversely impacted by the COVID-19 pandemic, and enforcing statutes and rules related to these entities and license types affects the ability of these entities to maintain and sustain operations while effectively participating in combating the spread of COVID-19.

The board has the authority under RCW 66.24.055 to assess penalties by rule for spirits distributor licensees. This emergency rule:

- Provides a waiver, retroactive to February 29, 2020, of penalties for fees that become due while Governor's Proclamation 20-13 is in effect;
- Supports the ability of businesses to adjust to the COVID-19 outbreak; and
- Reduces economic hardships suffered by businesses during the temporary suspension of business consistent with Governor's Proclamation 20-13.

This rule does **not** relieve any WSLCB licensee from its statutory obligation to remit taxes to the WSLCB.

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 27, 2020.

Jane Rushford  
Board Chair

**AMENDATORY SECTION** (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

**WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late?** (1) Failure of a spirits distributor licensee to submit monthly reports and payment to the board as required in WAC 314-23-021(1) will be sufficient grounds for the board to suspend or revoke the liquor license.

(2) A penalty of two percent per month will be assessed on any payments postmarked or posted in the WSLCB receiving account if paying electronically after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the report and payment must be postmarked or posted in the WSLCB receiving account if paying electronically no later than the next postal business day.

Absent a postmark, and if not paying electronically, the date received at the WSLCB will be used to determine if penalties are to be assessed.

(3) Electronic payments will be considered received on the date they post in the WSLCB receiving account.

(4) Subsections (1) and (2) of this section are waived, retroactive to February 29, 2020, while Governor's Proclamation 20-13 is in effect.

**WSR 20-08-086**  
**EMERGENCY RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed March 27, 2020, 1:40 p.m., effective March 27, 2020, 1:40 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?, the Washington state liquor and cannabis board (board/WSLCB) has adopted an emergency rule to amend WAC 314-28-080 that provides a waiver of penalties for fees that become due under RCW 66.24.630 and 66.28.370 while Proclamation 20-13 is in effect.

Citation of Rules Affected by this Order: Amending WAC 314-28-080.

Statutory Authority for Adoption: RCW 66.24.630, 66.28.370; and 66.08.0501.

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

Reasons for this Finding: On February 29, 2020, Governor Inslee issued Proclamation 20-05 that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington state, and proclaimed a State of Emergency for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.

On March 16, 2020, Governor Inslee issued Proclamation 20-13 that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities for disease exposure and transmission in the state. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from two hundred fifty persons to fifty persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.

The board administers licensing, enforcement and education services for establishments that sell alcohol for on and off premises consumption. Consistent with statute, regulation and administrative provisions, licensees under the administration of the board are subject to various taxes and fees dependent on product and license type. Licensees are required to timely report and remit those taxes and fees to the board. If the board determines that a licensee is delinquent in reporting or remitting any of the required taxes and fees, including any penalties on required taxes, the board may suspend, or deny renewal or issuance of a license.

All entities and license types under the authority of the board have been adversely impacted by the COVID-19 pandemic, and enforcing statutes and rules related to these entities and license types affects the ability of some of these entities to maintain and sustain operations while effectively participating in combating the spread of COVID-19.

The board has the authority under RCW 66.24.630 and RCW 66.28.370 to assess penalties by rule for distilleries. This emergency rule:

- Provides a waiver, retroactive to February 29, 2020, of penalties for fees that become due while Governor's Proclamation 20-13 is in effect;
- Supports the ability of businesses to adjust to the COVID-19 outbreak; and
- Reduces economic hardships suffered by businesses during the temporary suspension of business consistent with Governor's Proclamation 20-13.

This rule does **not** relieve any WSLCB licensee from its statutory obligation to remit taxes to the WSLCB.

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 27, 2020.

Jane Rushford  
Board Chair

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

**WAC 314-28-080 What if a distillery or craft distillery licensee fails to report or pay, or reports or pays late?**

(1) Failure of a distillery or craft distiller to submit its monthly reports and payment to the board as required will be sufficient grounds for the board to suspend or revoke the liquor license.

Penalties. A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

(2) Subsection (1) of this section is waived, retroactive to February 29, 2020, while Governor's Proclamation 20-13 is in effect.

**WSR 20-08-087**

**EMERGENCY RULES**

**LIQUOR AND CANNABIS**

**BOARD**

[Filed March 27, 2020, 1:42 p.m., effective March 27, 2020, 1:42 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 314-55-092 Failure to pay excise taxes and late payment of excise taxes, the Washington state liquor and cannabis board (board/WSLCB) has adopted an emergency rule to amend WAC 314-55-092 that provides a waiver of penalties for excise taxes that become due under RCW 69.50.535 while Proclamation 20-13 is in effect.

Citation of Rules Affected by this Order: Amending WAC 314-55-092.

Statutory Authority for Adoption: RCW 69.50.535, 69.50.342.

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

Reasons for this Finding: On February 29, 2020, Governor Inslee issued Proclamation 20-05 that confirmed the person-to-person spread of the novel coronavirus (COVID-19) in Washington state, and proclaimed a State of Emergency

for all counties throughout the state of Washington based on the COVID-19 outbreak in the United States.

On March 16, 2020, Governor Inslee issued Proclamation 20-13 that imposed statewide limits on food and beverage services, and areas of congregation to limit opportunities for disease exposure and transmission in the state. Proclamation 20-13 was based on both guidance from the United States Center for Disease Control and Prevention to reduce the size of gatherings from two hundred fifty persons to fifty persons, and the necessity to prohibit any number of people from congregating in public venues for the purposes of entertainment, recreation, food or beverage service, theater, bowling or other similar activities.

The board administers licensing, enforcement and education services for marijuana producers, processors, and retailers. Consistent with statute, regulation and administrative provisions, licensees under the administration of the board are subject to various taxes and fees. Licensees are required to timely report and remit those taxes and fees to the board consistent with RCW 69.50.535. If the board determines that a licensee is delinquent in reporting or remitting any of the required taxes and fees, including any penalties on required taxes, the board may suspend, or deny renewal or issuance of a license.

All entities and license types under the authority of the Board have been adversely impacted by the COVID-19 pandemic, and enforcing statutes and rules related to these entities and license types affects the ability of some of these entities to maintain and sustain operations while effectively participating in combating the spread of COVID-19.

The board has the authority to both assess and waive penalties in rule for marijuana licensees. This emergency rule:

- Provides a waiver, retroactive to February 29, 2020, of penalties for failure to pay or late payment of excise taxes that become due while Governor's Proclamation 20-13 is in effect;
- Supports the ability of businesses to adjust to the COVID-19 outbreak; and
- Reduces economic hardships suffered by businesses during the temporary suspension of business consistent with Governor's Proclamation 20-13.

This rule does **not** relieve any WSLCB licensee from its statutory obligation to remit taxes to the WSLCB.

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 27, 2020.

Jane Rushford  
Board Chair

**AMENDATORY SECTION** (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

**WAC 314-55-092 Failure to pay excise taxes and late payment of excise taxes.** (1) If a marijuana licensee does not submit its payment(s) to the WSLCB as required in WAC 314-55-089: The licensee is subject to penalties.

**Penalties:** A penalty of two percent per month will be assessed on the outstanding balance for any payments post-marked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the WSLCB or authorized designee, will be used to assess the penalty of two percent per month on the outstanding balance after the twentieth day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the WSLCB to suspend or revoke a marijuana license.

(3) Subsections (1) and (2) of this section are waived, retroactive to February 29, 2020, while Governor's Proclamation 20-13 is in effect.

**WSR 20-08-089**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed March 27, 2020, 1:47 p.m., effective March 27, 2020, 1:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: 2019's Clean Energy Transformation Act amends RCW 82.08.962 and 82.12.962 related to sales and use tax remittances for machinery and equipment used in generating electricity (sections 18 and 19, chapter 288, Laws of 2019, E2SSB 5116). Under the amendments, the sales and use tax remittances are available for certain clean energy projects when certified by the department of labor and industries (department) that the developer of the project complied with specific labor standard requirements and the machinery and equipment is installed on or after January 1, 2020, and completed by December 31, 2029. The department is required to adopt emergency rules to define and set minimum requirements for all labor standards associated with the certification for tax remittance; set requirements for all good faith efforts; and set other requirements to documentation and the certification process.

The emergency rules address:

- Standards for certification for:

- Procurement from and contracts with women-owned, minority-owned, and veteran-owned businesses;
- Procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations;
- Apprenticeship utilization;
- Preferred entry for workers living in the area where the project is being constructed;
- Payment of prevailing wages; and
- Project labor agreements and community workforce agreements.
- Requirements and processes related to application, records and documentation, and certification.

An initial emergency rule (WSR 19-24-061) and CR-101 Preproposal statement of inquiry (WSR 19-24-062) were filed on November 27, 2019. This rule making renews the emergency rules while the permanent rule-making process continues. This emergency rule is adopted under new chapter 296-140 WAC, Clean energy labor standards certification. As directed by E2SSB 5116, the department is continuing work on permanent rule making for these requirements.

Citation of Rules Affected by this Order: New WAC 296-140-001, 296-140-002, 296-140-003, and 296-140-004.

Statutory Authority for Adoption: Sections 18 and 19, chapter 288, Laws of 2019, RCW 82.08.962 and 82.12.962 (E2SSB 5116), Laws of 2018.

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

Reasons for this Finding: An initial emergency rule (WSR 19-24-061) and CR-101 Preproposal statement of inquiry (WSR 19-24-062) were filed on November 27, 2019. This rule making renews the emergency rules while the permanent rule-making process continues.

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 4, 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 0, Repealed 0.

Date Adopted: March 27, 2020.

Joel Sacks  
Director

**Chapter 296-140 WAC**  
**CLEAN ENERGY LABOR STANDARDS**  
**CERTIFICATION**

NEW SECTION

**WAC 296-140-001 Definitions.** (1) "Category 1 clean energy project" means a project to:

(a) Construct a facility capable of generating not less than 1000 watts AC of electricity using any of the following principal sources of power: Fuel cells; wind; biomass energy; geothermal resource; tidal or wave energy; or technology that converts otherwise lost energy from exhaust; or

(b) Construct solar energy systems capable of generating not less than 500 kilowatts AC of electricity.

(2) "Category 2 clean energy project" means a project to construct solar energy systems capable of generating more than 100 kilowatts AC, but no more than 500 kilowatts AC of electricity.

(3) "Community workforce agreement (CWA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4) "Department" means the department of labor and industries.

(5) "Good faith efforts" means the efforts by the project developer or its designated principle contractor that maximize the likelihood that the project will be built in compliance with the standards for certification. The totality of the circumstances and factors will be reviewed to determine good faith. Good faith efforts are not necessary when the standard requirements have been met.

(6) "Labor hours" means the total hours of laborers, workers, or mechanics receiving an hourly wage who are directly employed by the contractor and all subcontractors working upon the project. Labor hours does not include hours worked by foremen, superintendents, or owners except where the hours worked are counted in satisfying the required apprentice to journey supervision ratio as required by apprenticeship standards.

(7) "Local resident" means Washington laborers, workers, or mechanics receiving an hourly wage who live within fifty miles of the project being constructed unless the project is being constructed in a rural county, then it is defined as Washington workers who live within two hundred miles of the project.

(8) "Minority-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a minority business enterprise (MBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(9) "Project labor agreement (PLA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(10) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Wash-

ington state apprenticeship and training council according to chapter 49.04 RCW.

(11) "Rural county" has the same definition as RCW 82.14.370(5).

(12) "Women-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a women business enterprise (WBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(13) "Veteran-owned business" means a business certified by the Washington state department of veteran affairs under RCW 43.60A.190 or a business considered a veteran-owned business under 38 C.F.R. Part 74.

NEW SECTION

**WAC 296-140-002 Labor standard certification for Category 1 clean energy projects under RCW 82.08.962 and 82.12.962.**

(1) To qualify for the department certification for the fifty percent tax remittance for a Category 1 clean energy project, the project must meet the following minimum requirements:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses.

(i) Have twenty-one percent of the contracts awarded to women-owned businesses, minority-owned businesses, or veteran-owned businesses; or

(ii) Good faith efforts which include, but are not limited to:

(A) Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms;

(B) Participating in community job fairs, conferences, and trade shows;

(C) Identification of interested women, minority, and veteran-owned businesses that have the capability to perform the work of the contract;

(D) Providing reasonable time for women, minority, and veteran-owned businesses to fully and meaningfully respond to bid solicitations, that includes providing adequate information about the plans, specifications, and requirements of the contract along with timely responses to subcontractor inquiries and proposals;

(E) Apportioning contract work items into economically feasible units to facilitate women, minority, and veteran-owned businesses' participation and where possible, establishing flexible time frames for performance to encourage participation;

(F) Adequately researching interested subcontractors and their capabilities before rejecting their proposals; and

(G) Not relying on price alone in the selection of subcontractors and considering reasonable quotes from women, minority, and veteran-owned businesses, even if other quotes are less expensive.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) Awards contracts to businesses that have no findings of violation of federal or state wage and hour laws and regu-

lations in a final and binding order by an administrative agency or court of competent jurisdiction in the twenty-four month period prior to the bid date; or

(ii) Good faith efforts which include, but are not limited to:

(A) Efforts to hire contractors with a history of compliance with wage and hour laws.

(B) Adequately researching interested subcontractors and their wage and hour history before rejecting their proposals.

(C) If the only qualified contractor is one that does not meet the standard, requiring remedial measures that allow for ongoing review of compliance with wage and hour laws.

(c) Standard for apprenticeship utilization.

(i) Have a minimum of fifteen percent of the project's labor hours performed by registered apprentices; or

(ii) Good faith efforts which include, but are not limited to:

(A) The project developer or its designated principle contractor or subcontractors participate in state-approved apprenticeship programs but no apprentices were available or not enough apprentices were available during the project. It is expected that contractors participate in apprenticeship programs for occupations where they have employees being trained;

(B) If apprentices are not available for dispatch at the beginning of the project, it is expected that the contractor check back with the program periodically to see if apprentices are available;

(C) The following situations do not meet the requirements for good faith efforts:

(I) Falling short of the requirement due to subcontractors not using apprentices;

(II) Not using a state-approved apprenticeship program while you are trying to get your own program approved by the Washington state apprenticeship and training council;

(III) Not using a state-approved apprenticeship program due to cost;

(IV) Not using a state-approved apprenticeship program because you are an out-of-state contractor;

(V) Not replacing an apprentice that quit or was fired; or not using enough apprentices because certain work is too dangerous or the apprentices do not have the appropriate skills.

(d) Standard for preferred entry for workers living in the area where the project is being constructed:

(i) Have a minimum of thirty-five percent of total labor work hours performed by local residents except for projects located in rural counties, which may have a minimum of twenty percent of total labor hours by local residents; or

(ii) Good faith efforts which include, but are not limited to:

(A) Listing the job with the local Washington Work-Source office in advance of the start of the project or contract;

(B) Requesting the dispatch of local workers through union halls;

(C) Informing community partners/organizations of opportunities in advance of the start of the project or contract;

(D) Developing an employment hiring plan prior to the start of the project detailing how the local hiring requirements will be met; and

(E) Designating a jobs coordinator to be responsible for the local hire requirements with the experience and qualifications necessary to identify and recruit local workers, and provide referrals as appropriate to comply with local hire requirements.

(2) To qualify for the department certification for the seventy-five percent tax remittance for a Category 1 clean energy project, the project must meet the following minimum requirements:

(a) Meet the standards for certification for the fifty percent tax remittance under WAC 296-140-002(1); and

(b) Pay all workers performing labor hours on the project wages not less than prevailing wages as determined by the department under chapter 39.12 RCW.

(3) To qualify for the department certification for the one hundred percent remittance for a Category 1 clean energy project, the project must have: A signed PLA or CWA for the project prior to construction starting on the project. Separately meeting the standards for certification for the fifty percent and seventy-five percent tax remittance under subsections (1) and (2) of this section are not required.

(4) The inability to meet any of the standards based on conflicts with state or federal law may constitute good faith.

#### NEW SECTION

**WAC 296-140-003 Labor standard certification for Category 2 clean energy projects under RCW 82.08.962 and 82.12.962.** To qualify for the department certification for the fifty percent tax remittance for a Category 2 clean energy project, the project must meet the standards for procurement from and contracts with women, minority, or veteran-owned businesses, procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations, apprenticeship utilization, and preferred entry for workers living in the area where the project is being constructed under WAC 296-140-002 (1) and (4).

#### NEW SECTION

**WAC 296-140-004 Application, records and documentation, and certification.** (1) Businesses applying for the department certification must complete an application in a form required by the department prior to the start of the project.

(2) Businesses must maintain records and documentation open to review to verify compliance with the labor standards or the good faith efforts. Records and documentation include, but are not limited to:

(a) Standard for procurement from and contracts with women, minority, or veteran-owned businesses:

(i) A list of all businesses that have had contracts on the project, including information about their certifications for the women-owned businesses, minority-owned businesses, or veteran-owned businesses that have been contracted with on the project, including:

(A) A description of the work of the contract;

(B) The dollar amount of the contract;

(ii) Written confirmation from each women-owned business, minority-owned business, or veteran-owned business that it is participating in the contract;

(iii) Documentation and evidence to support good faith efforts as necessary; and

(iv) Other records and documentation requested by the department.

(b) Standard for procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations.

(i) A list of all the businesses contracted with, including the unified business identifier number, the federal employer identification number, other identifying information requested by the department, and information obtained concerning their federal and state wage and hour laws and regulations compliance history;

(ii) A copy of documents related to the contract invitation or bid such as the contract solicitation, bid request, or request for proposal; a copy of the responding bids, proposals, or offer; and a copy of any final contracts and amendments;

(iii) A description of the process used to determine prospective contractors' compliance with federal and state wage and hour laws and regulations;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(c) Standard for apprenticeship utilization.

(i) The name, occupational title, and registration number for each registered apprentice;

(ii) The number of apprentices and labor hours worked, categorized by occupational title and employer;

(iii) The number of journey level workers and labor hours worked, categorized by occupational title and employer;

(iv) Copies of weekly or monthly reporting forms and payroll records used to capture the required information;

(v) A statement affirming the hours reported meeting the definition of "labor hours" as defined by WAC 296-140-001;

(vi) Documentation and evidence to support good faith efforts as necessary; and

(vii) Other records and documentation requested by the department.

(d) Standard for preferred entry by local workers.

(i) The total number of workers performing labor hours on the project;

(ii) The total number of workers performing labor hours hired who meet the definition of a local worker under WAC 296-140-001 for the job category selected;

(iii) Employment records that contain the address of individuals hired to work on the project;

(iv) Documentation and evidence to support good faith efforts as necessary; and

(v) Other records and documentation requested by the department.

(e) Standard for payment of prevailing wages.

(i) Documentation showing all workers performing labor hours on the project were paid not less than chapter 39.12 RCW prevailing rates of wage; and

(ii) Payroll records. For projects that are also public works, labor and industries public work reporting online system for the project will eliminate the need to maintain documents and is acceptable as the system of record.

(f) Records and documents for a standard for a PLA or CWA. A signed copy of the PLA or CWA for the project.

(3) The department may require periodic reporting of compliance in a form and method prescribed by the department. Where a project seeking certification under this rule is also a public works project, public works reporting requirements may satisfy reporting requirements.

(4) For Category 1 clean energy projects seeking certification for the fifty and seventy-five percent tax remittance and Category 2 clean energy projects seeking certification for the fifty percent tax remittance, businesses must submit notice of project completion in a form required by the department. After receiving the notice of competition, the department will determine if the certification standards are met based on a review of the documentation as requested by the department. If the standards were met, the department will issue the certification to the applicant.

(5) For Category 1 clean energy projects seeking certification for the one hundred percent tax remittance, the department will issue certification upon the receipt of the required application for certification and a signed copy of the PLA or CWA for the project.

## WSR 20-08-096

### EMERGENCY RULES

### DEPARTMENT OF HEALTH

[Filed March 30, 2020, 11:06 a.m., effective March 30, 2020, 11:06 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-10-109 and 246-11-080, responding to the coronavirus disease 2019 (COVID-19) pandemic by amending the procedural rules applicable to adjudicative proceedings conducted by the department of health (department) and health professions boards and commissions in order to facilitate filing and serving documents during the restrictions put in place by the governor in response to the pandemic. Chapter 246-10 WAC applies to all adjudicative proceedings conducted by the department. Chapter 246-11 WAC applies to adjudicative proceedings conducted by health professions boards and commissions having disciplining authority under the Uniform Disciplinary Act, chapter 18.130 RCW.

This emergency rule adds the option of e-filing at a particular email address and recognizes that the parties may agree to electronic service of documents. It removes the options of filing with the department's adjudicative clerk's office (ACO) by hand delivery, and serving documents on a party or a party's designated representative by personal service. It retains the options of filing documents by mailing hard copies to or faxing to the ACO, or serving a party by mail or fax, but removes the requirement to mail copies at the same time as faxing them.

Citation of Rules Affected by this Order: Amending WAC 246-10-109 and 246-11-080.

Statutory Authority for Adoption: RCW 43.70.040 and 34.05.220 (1)(a).

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 response to COVID-19, the department is taking action to help prevent the spread of COVID-19, follow social distancing practices and respond to the Governor's Stay Home, Stay Healthy order. This emergency rule removes the option of hand delivering documents to the ACO or personally serving documents on a party or a party's designated representative. Hand delivery of documents can defy the principles of social distancing practices, and can put individuals at the risk of spreading COVID-19. The buildings at the department are temporarily closed, making hand delivery difficult. This emergency rule includes the options of e-filing at a particular email address, and recognizes that the parties can agree to electronic service of documents, better options to help prevent the spread of COVID-19. It retains the options of mailing hard copies to or faxing to the ACO, or serving a party by mail or fax, but removes the requirement to mail copies at the same time as faxing them. These emergency rules help to safely continue essential functions during these unprecedented times while taking necessary measures to help prevent the spread of 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 2, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: March 30, 2020.

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

AMENDATORY SECTION (Amending WSR 18-18-049, filed 8/29/18, effective 9/29/18)

**WAC 246-10-109 Filing and service of documents.**

(1) For purposes of this section "documents" means pleadings, briefs, exhibits, or other materials requested or relevant to an adjudicative proceeding.

(2) Filing. Filing is the act of delivering documents to the adjudicative clerk's office.

(a) A party must file with the adjudicative clerk's office documents required or allowed pursuant to this chapter.

(b) Unless otherwise provided by law, documents must be filed by:

~~(i) (Hand delivery to the adjudicative clerk's office; (ii)) First class, registered, or certified mail; (or (iii)) (i) Fax transmission (where copies are mailed simultaneously); or~~

(ii) Electronic mail sent to ACOfax@doh.wa.gov.

(c) The date of filing is the date the documents are received by the adjudicative clerk's office.

(d) Filing is effective when the documents are received by the adjudicative clerk's office during normal business hours. For documents received after 5:00 p.m. on a business day or on a Saturday, Sunday, or legal holiday, the filing is effective the next business day.

(3) Service. Service is the act of delivering a document to a party or a party's designated representative.

(a) Unless otherwise provided by law, documents must be served by:

~~(i) (Personal service; (ii)) First class, registered, or certified mail; or ((iii)) (i) Fax transmission (where copies are mailed simultaneously)).~~

(b) A party must serve copies of documents required or allowed by this chapter prior to or simultaneously with filing the original document with the adjudicative clerk's office.

(c) Service is complete when the documents are:

~~(i) (Personally served; (ii)) Properly stamped, addressed, and deposited in the United States mail; or ((iii)) (i) Successfully transmitted by fax (and properly stamped and addressed copies are deposited in the United States mail)).~~

(d) A party may prove service by filing in compliance with this chapter any of the following:

(i) An acknowledgment of service; or  
(ii) A certificate of service including the date the documents were served, the parties upon whom served, the signature of the serving party, and a statement specifying which type of service was used.

(e) Service on a licensee, applicant, or a person requesting an adjudicative proceeding will be made at the last known address provided to the department in accordance with WAC 246-12-310, unless the program has actual knowledge of a different correct address for the person being served.

(4) The parties may agree to use electronic mail for service of documents.

(5) A party may agree to service of initial or final orders via electronic mail.

AMENDATORY SECTION (Amending WSR 18-18-050, filed 8/29/18, effective 9/29/18)

**WAC 246-11-080 Filing and service of documents.**

(1) For purposes of this section "document" means pleadings, briefs, exhibits, or other materials requested or relevant to an adjudicative proceeding.

(2) Filing. Filing is the act of delivering documents to the adjudicative clerk's office.

(a) A party must file with the adjudicative clerk's office documents required or allowed pursuant to this chapter.

(b) Unless otherwise provided by law, documents must be filed by:

- (i) ~~((Hand delivery to the adjudicative clerk's office; (ii) First class, registered, or certified mail; (or (iii) (ii) Fax transmission (where copies are mailed simultaneously)); or (iii) Electronic mail sent to ACOfax@doh.wa.gov.~~

(c) The date of filing is the date the documents are received by the adjudicative clerk's office.

(d) Filing is effective when the documents are received by the adjudicative clerk's office during normal business hours. For documents received after 5:00 p.m. on a business day or on a Saturday, Sunday, or legal holiday, the filing is effective the next business day.

(3) Service. Service is the act of delivering a document to a party or a party's designated representative.

(a) Unless otherwise provided by law, documents must be served by:

- (i) ~~((Personal service; (ii) First class, registered, or certified mail; or (iii) (ii) Fax transmission (where copies are mailed simultaneously)).~~

(b) A party must serve copies of documents required or allowed by this chapter prior to or simultaneously with filing the original document with the adjudicative clerk's office.

(c) Service is complete when the documents are:

- (i) ~~((Personally served; (ii) Properly stamped, addressed, and deposited in the United States mail; or (iii) (ii) Successfully transmitted by fax (and properly stamped and addressed copies are deposited in the United States mail)).~~

(d) A party may prove service by filing in compliance with this chapter any of the following:

- (i) An acknowledgment of service; or  
(ii) A certificate of service including the date the documents were served, the parties upon whom served, the signature of the serving party, and a statement specifying which type of service was used.

(e) Service on a licensee, applicant, or a person requesting an adjudicative proceeding will be made at the last known address provided to the department in accordance with WAC 246-12-310, unless the program has actual knowledge of a different correct address for the person being served.

(4) The parties may agree to use electronic mail for service of documents.

(5) A party may agree to service of initial or final orders via electronic mail.

pandemic. More specifically, remove the deadline by which a provider must enroll in the program and the requirement to reach quality rating levels. Child care and early learning providers who participate in working connections and seasonal child care must still enroll in the early achievers program, follow its operating guidelines, submit attendance records electronically, and renew their facility ratings every three years.

Citation of Rules Affected by this Order: Amending WAC 110-15-0125 and 110-15-3750.

Statutory Authority for Adoption: RCW 43.216.055 and 43.216.065.

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

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor's proclamation directed state agencies to do everything reasonably possible to respond to and recover from the COVID-19 outbreak. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. The effects of its extreme risk of person-to-person transmission throughout Washington state significantly impact the life and health of our people, as well as our economy, and pose particular challenges to the availability of quality early learning and child care services for families with low incomes. The emergency amendments to WAC 110-15-0125 and 110-15-3750 address these challenges by waving [waiving] and suspending some of the regulatory system requirements that delay child care providers from making child care available to the children of essential staff who are from low income families who require child care services during the COVID-19 pandemic.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, 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 30, 2020.

## WSR 20-08-098

### EMERGENCY RULES DEPARTMENT OF

### CHILDREN, YOUTH, AND FAMILIES

[Filed March 30, 2020, 11:11 a.m., effective March 30, 2020, 11:11 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Modify the early achievers quality rating and improvement system requirements during the COVID-19

Brenda Villarreal  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-01-111, filed 12/18/18, effective 1/18/19)

**WAC 110-15-0125 Approved child care providers.**

(1) In-home/relative providers. To be approved to receive benefits under the WCCC program, an in-home/relative provider must comply with the applicable requirements contained in this chapter, chapter 43.216 RCW, and chapters 110-06 and 110-16 WAC.

(2) Licensed providers.

(a) To be approved to receive payment under the WCCC program, a licensed provider must comply with the requirements of this chapter, chapter 43.216 RCW, ~~((and))~~ chapter ~~((s))~~ 110-06, and chapter 110-300 ~~((, 110-300A, 110-300B, and))~~ or 110-305 WAC.

(b) A provider who cares for a child who is a Washington resident in a state that borders Washington must:

(i) Be licensed to provide care in the bordering state;

(ii) Comply with the bordering state's licensing regulations;

(iii) Comply with the electronic attendance requirements contained in WAC 110-15-0126.

(c) The lesser of the following will be paid to a qualified, licensed child care provider in a state that borders Washington:

(i) The provider's private pay rate for that child; or

(ii) The DCYF maximum WCCC subsidy daily rate for the DCYF region where the child resides.

(d) A licensed provider in a state that borders Washington that receives WCCC subsidy payment to care for a child who is a Washington resident is not required or eligible to participate in the early achievers program or to receive quality improvement awards, tiered reimbursements, or other awards and incentives associated with the early achievers program.

(3) Certified providers. To be approved to receive payment under the WCCC program, a certified provider must comply with the certification requirements contained in this chapter, chapter 43.216 RCW, ~~((and))~~ chapter ~~((s))~~ 110-06, and chapter 110-300 ~~((, 110-300A, 110-300B, and))~~ or 110-305 WAC. Certified providers include:

(a) Tribal child care facilities that meet the requirements of tribal law;

(b) Child care facilities on a military installation;

(c) Child care facilities operated on public school property by a school district; and

(d) Seasonal day camps that contract with DCYF to provide subsidized child care.

(4) ~~((Early achievers program requirements for licensed and certified child care providers that))~~ to be eligible to receive their first WCCC payment on or after July 1, 2016:

(a) ~~((A licensed or certified child care provider that first receives a WCCC subsidy payment on or after July 1, 2016, for providing nonschool age child care must complete the following activities to be eligible to receive additional WCCC payments:~~

~~((i))~~ Enroll in the early achievers program; and ~~((within thirty days of receiving the first WCCC subsidy payment. A licensed or certified provider that fails to meet this requirement will lose DCYF approval to receive WCCC subsidy payments for providing nonschool age child care;~~

~~((ii))~~ Complete level 2 activities in the early achievers program within twelve months of enrollment. A licensed or certified provider that fails to meet this requirement will lose DCYF approval to receive DCYF subsidy payments for providing nonschool age child care;

~~((iii))~~ Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. A licensed or certified provider that fails to meet this requirement within thirty months of enrollment in the early achievers program, must complete remedial activities with DCYF and rate at a level 3 or higher within six months of beginning remedial activities. A licensed or certified provider that fails to rate at a level 3 or higher within six months of beginning remedial activities will lose DCYF approval to receive WCCC subsidy payments for providing nonschool age child care; and

~~((iv))~~ (b) Renew their facility rating every three years ~~((and maintain a rating level 3 or higher))~~. If a licensed or certified provider fails to renew their facility rating ~~((or maintain a rating level 3 or higher))~~, the licensed or certified provider will lose DCYF approval to receive WCCC subsidy payments for providing nonschool age child care.

~~((b))~~ (c) Licensed and certified providers must comply with the provisions for participation as outlined in the early achievers operating guidelines. Failure to comply with these guidelines may result in a licensed or certified provider's loss of DCYF approval to receive WCCC subsidy payments for providing nonschool age child care.

(5) ~~((Early achievers program requirements for licensed and certified child care providers that received a WCCC payment on or between July 1, 2015, and June 30, 2016:~~

~~((a))~~ A licensed or certified child care provider that received a WCCC subsidy payment on or between July 1, 2015, and June 30, 2016 ~~((, for providing nonschool age child care, must complete the following activities to be eligible to receive additional WCCC subsidy payments:~~

~~((i))~~ Enroll in the early achievers program by August 1, 2016. A licensed or certified provider that fails to meet this requirement will lose DCYF approval to receive WCCC subsidy payments for providing nonschool age child care;

~~((ii))~~ Complete level 2 activities in the early achievers program by August 1, 2017. A provider who failed to meet this requirement will lose DCYF approval to receive WCCC subsidy payments for nonschool age child care; and

~~((iii))~~ Rate at a level 3 or higher in the early achievers program by December 31, 2019. A licensed or certified provider that fails to meet this requirement by December 31, 2019, must complete remedial activities with DCYF and rate at a level 3 or higher by June 30, 2020. A licensed or certified provider that fails to receive a rating by December 31, 2019, or fails to rate at a level 3 or higher by June 30, 2020, after completing remedial activities will lose DCYF approval to receive WCCC subsidy payments for providing nonschool age child care.

~~((b))~~ Licensed and certified providers) must renew their facility rating every three years. ~~((and maintain a rating level 3 or higher))~~. If a licensed or certified provider fails to renew their facility rating or maintain a rating level 3 or higher, ~~licensed or certified providers))~~ they will lose DCYF approval to receive WCCC subsidy payments for providing nonschool age child care.

(6) If a licensed or certified child care provider receiving WCCC subsidy payment for providing nonschool age has successfully completed all level 2 activities and is waiting to be rated, the licensed or certified provider may continue to receive WCCC subsidy payments ~~((pending the successful completion of the level 3 rating activity))~~.

(7) DCYF-contracted seasonal day camps must have a contract with ~~((DEL))~~ DCYF to provide subsidized child care.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**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.

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

**WAC 110-15-3750 Eligible child care providers.** To receive payment under the SCC program, a consumer's child care provider must be:

(1) Currently licensed as required by chapter ~~((43.215))~~ 43.216 RCW and ~~((170-295, 170-296A, or 170-297))~~ chapters 110-300 or 110-305 WAC;

(2) Meeting their state's licensing regulations, for providers who care for children in states bordering Washington. The SCC program pays the lesser of the following to qualified child care facilities in bordering states:

(a) The provider's private pay rate for that child; or

(b) The state maximum child care subsidy rate for the ~~((DSHS))~~ DCYF region where the child resides; or

(3) Exempt from licensing but certified by ~~((DEL))~~ DCYF, such as:

(a) Tribal child care facilities that meet the requirements of tribal law;

(b) Child care facilities on a military installation; and

(c) Child care facilities operated on public school property by a school district.

(4) ~~((New child care providers, as defined in WAC 170-290-0003, who are))~~ To be eligible to receive a state subsidy payment, an agency as defined in RCW 43.217.010 that is subject to licensure, or ((are certified)) a person or facility authorized to receive state subsidy ~~((as required by chapter 43.215 RCW and as described by chapter 170-295, 170-296A, or 170-297 WAC))~~ under chapter 43.216 RCW, who received a subsidy payment for nonschool age child care on or after July 1, 2016, and received no such payments during the period July 1, 2015, through June 30, 2016, must:

(a) Enroll in the early achievers program; ~~((within thirty days of receiving the initial state subsidy payment. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;~~

~~((i) Out of state providers that provide care for children receiving Washington state child care subsidies are neither required nor eligible to participate in early achievers; and~~

~~((ii) Out of state providers are not eligible to receive quality improvement awards, tiered reimbursement, or other~~

~~awards and incentives associated with participation in early achievers;))~~

(b) Adhere to the provisions for participation as outlined in the most recent version of the *Early Achievers Operating Guidelines*. Failure to adhere to these guidelines may result in a provider's loss of eligibility to receive state subsidy payments nonschool age child care; and

~~((c) Complete level 2 activities in the early achievers program within twelve months of enrollment. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;))~~

~~((d) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If an eligible provider fails to rate at a level 3 or higher within thirty months of enrollment in the early achievers program, the provider must complete remedial activities with the department and rate at a level 3 or higher within six months of beginning remedial activities. A provider who fails to receive a rating within thirty months of enrollment or fails to rate at a level 3 or higher within six months of beginning remedial activities will lose eligibility to receive state subsidy payments for nonschool age child care; and~~

~~((c) Maintain an up to date rating by renewing their facility rating every three years ((and maintaining a rating level 3 or higher)). If a provider fails to renew their facility rating ((or maintain a rating level 3 or higher)), they will lose eligibility to receive state subsidy payments nonschool age child care.~~

(5) Existing child care providers who are subject to licensure or are certified to receive state subsidy as required by chapter ~~((43.215))~~ 43.216 RCW ~~and as described by chapter 170-295, 170-296A, or 170-297 WAC;))~~ who have received a subsidy payment for a nonschool age child in the period July 1, 2015, through June 30, 2016, must:

~~((a) Enroll in the early achievers program by August 1, 2016. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;))~~

~~((i) Out of state providers that provide care for children receiving Washington state child care subsidies are neither required nor eligible to participate in early achievers; and~~

~~((ii) Out of state providers are not eligible to receive quality improvement awards, tiered reimbursement, or other awards and incentives associated with participation in early achievers.~~

~~((b) Complete level 2 activities in the early achievers program by August 1, 2017. A provider who fails to meet this requirement will lose eligibility to receive state subsidy payments for nonschool age child care;~~

~~((c) Rate at a level 3 or higher in the early achievers program by December 31, 2019;~~

~~((d) If an existing provider fails to rate at a level 3 or higher by December 31, 2019, in the early achievers program, the provider must complete remedial activities with the department and rate at a level 3 or higher by June 30, 2020. A provider who fails to receive a rating by December 31, 2019, or fails to rate at a level 3 or higher by June 30, 2020, after completing remedial activities will lose eligibility to receive state subsidy payments for nonschool age child care; and~~

~~(e) Maintain an up to date rating by renewing their facility rating every three years ((and maintaining a rating level 3 or higher)). If a provider fails to renew their facility rating ((or maintain a rating level 3 or higher)), they will lose eligibility to receive state subsidy payments nonschool age child care.~~

~~(6) If a child care provider ((serving nonschool age children, as defined in WAC 170-290-0003, and)) receiving state subsidy payments for nonschool age child care has successfully completed all level 2 activities and is waiting to be rated, the provider may continue to receive a state subsidy. ((pending the successful completion of the level 3 rating activity.))~~

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 20-08-104  
EMERGENCY RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 30, 2020, 4:48 p.m., effective March 30, 2020, 4:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of labor and industries (L&I) farm internship program (FIP) expired December 31, 2019. ESB 6421 extends L&I's FIP until December 31, 2025. This rule making will reestablish rates for workers' compensation insurance Classifications 4814, 4815, and 4816 Farms: Internship program, by creating WAC 296-17-89508. Workers' compensation insurance classification rates must be codified immediately so that employers participating in L&I's FIP can report hours for their farm interns.

An expedited rule making is being performed to permanently adopt the classification rates.

Citation of Rules Affected by this Order: New WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.

Statutory Authority for Adoption: RCW 51.16.035 (base rates) and 51.04.020(1) (general authority).

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: Without this emergency rule making, rates for the FIP classifications could not become effective. The new rates are necessary to ensure proper reporting of hours and collection of premiums for employers participating in the FIP.

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 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 30, 2020.

Joel Sacks  
Director

**NEW SECTION**

**WAC 296-17-89508 Farm internship program industrial insurance, accident fund, stay at work fund, medical aid fund, and supplemental pension by class.**

Base Rates Effective  
March 30, 2020

Class	Accident Fund	Stay at		
		Work Fund	Medical Aid Fund	Supplemental Pension Fund
4814	0.1194	0.0017	0.1456	0.1225
4815	0.2216	0.0032	0.3035	0.1225
4816	0.3572	0.0052	0.4070	0.1225

**WSR 20-08-106  
EMERGENCY RULES  
HEALTH CARE AUTHORITY**

[Filed March 31, 2020, 8:18 a.m., effective March 31, 2020, 8:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is temporarily removing the requirement to obtain a signature from the medicaid client or the client's designee upon receipt of pharmacy products dispensed and delivered directly to a client.

Citation of Rules Affected by this Order: Amending WAC 182-530-5000.

Statutory Authority for Adoption: RCW 41.05.021, 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: In response to the current public health emergency surrounding the outbreak of the coronavirus disease (COVID-19), along with the governor of Washington's emergency proclamations related to COVID-19, this rule making is necessary to immediately allow delivery of pharmacy products without the required signature from the client or the client's designee in order to avoid contact between the client and the delivery person.

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 31, 2020.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 16-01-046, filed 12/9/15, effective 1/9/16)

**WAC 182-530-5000 Billing requirements—Pharmacy claim payment.** (1) When billing the medicaid agency for pharmacy services, providers must:

(a) Use the appropriate agency claim form or electronic billing specifications;

(b) Include the actual eleven-digit national drug code (NDC) number of the product dispensed from a rebate eligible manufacturer;

(c) Bill the agency using metric decimal quantities which is the National Council for Prescription Drug Programs (NCPDP) billing unit standard;

(d) Meet the general provider documentation and record retention requirements in WAC 182-502-0020; and

(e) Maintain proof of delivery receipts.

(i) When a provider delivers an item directly to the client or the client's authorized representative, the provider must be able to furnish proof of delivery, including ~~((signature,))~~ the client's name and a detailed description of the item or items delivered.

(ii) When a provider mails an item to the client, the provider must be able to furnish proof of delivery including a mail log.

(iii) When a provider uses a delivery or shipping service to deliver items, the provider must be able to furnish proof of delivery and it must:

(A) Include the delivery service tracking slip with the client's name or a reference to the client's package or packages; the delivery service package identification number; and the delivery address.

(B) Include the supplier's shipping invoice, with the client's name; the shipping service package identification number; and a detailed description.

(iv) Make proof of delivery receipts available to the agency upon request.

(2) When billing drugs under the expedited authorization process, providers must insert the authorization number

which includes the corresponding criteria code or codes in the appropriate data field on the drug claim.

(3) Pharmacy services for clients on restriction under WAC 182-501-0135 must be prescribed by the client's primary care provider and are paid only to the client's primary pharmacy, except in cases of:

(a) Emergency;

(b) Family planning services; or

(c) Services properly referred from the client's assigned pharmacy or physician/ARNP.

## WSR 20-08-107

### EMERGENCY RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 31, 2020, 8:42 a.m., effective March 31, 2020, 8:42 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The community services division is creating WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic, to implement changes to food assistance benefit issuances for March and April 2020 as provided in the Families First Coronavirus Response Act (H.R. 6201) Section 2302.

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

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

Other Authority: H.R. 6201.

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

Reasons for this Finding: These changes are required to implement provisions of the Families First Coronavirus Response Act (H.R. 6201) Section 2302.

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

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

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

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

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

Date Adopted: March 30, 2020.

Katherine I. Vasquez  
Rules Coordinator

NEW SECTION

Director

**WAC 388-437-0005 Changes to food assistance in response to the COVID-19 pandemic.** During the months of March and April 2020, assistance units (AU) eligible for either federal or state-funded food assistance, or both, will receive emergency allotments that bring the AU up to the maximum benefit. The amount is the maximum food assistance benefit allotment for the AU size under WAC 388-478-0060(1) less the amount received under WAC 388-450-0162 (4)(b).

**WSR 20-08-108  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 20-51—Filed March 31, 2020, 9:07 a.m., effective March 31, 2020, 9:07 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The Washington department of fish and wildlife (WDFW) is delaying the opening of the spring bear hunts scheduled to open on April 1, 2020, until further notice. We will reassess to determine when the spring bear hunt can open. The next assessment will occur on April 6.

Citation of Rules Affected by this Order: Amending WAC 220-415-080.

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

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

Reasons for this Finding: WDFW is delaying the spring bear hunt as part of an effort to help slow the spread of the COVID-19 coronavirus. This decision is necessary to comply with Governor Inslee's recent statewide proclamation for all Washingtonians to stay home for the next two weeks.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: March 31, 2020.

Kelly Susewind

NEW SECTION

**WAC 220-415-08000A 2020 Spring black bear special permits.** Notwithstanding the provisions of WAC 220-415-080, effective immediately, until further notice, the hunt areas, permit levels, and season dates for each license year shall be as follows:

**Hunt Areas, Permit Levels, and Season Dates for Each License Year:**

Hunt Name	Hunt Area	Permits	Season Dates
Sherman	GMU 101 Note: Mandatory bear identification test required.	50	Delayed until further notice
Kelly Hill	GMU 105 Note: Mandatory bear identification test required.	50	
Douglas	GMU 108 Note: Mandatory bear identification test required.	40	
Aladdin	GMU 111 Note: Mandatory bear identification test required.	50	
49 Degrees North	GMU 117 Note: Mandatory bear identification test required.	100	
Huckleberry	GMU 121	100	
Blue Creek	GMU 154	18	April 15 - June 15
Dayton	GMU 162	18	April 15 - June 15
Tucannon	GMU 166	5	April 15 - June 15
Wenaha	GMU 169	60	April 15 - June 15
Mt. View	GMU 172	24	April 15 - June 15
Lick Creek	GMU 175	18	April 15 - June 15
Peola	GMU 178	5	April 15 - June 15
Couse	GMU 181	5	April 15 - June 15
Grande Ronde	GMU 186	5	April 15 - June 15
Kitsap	GMU 627	5	April 15 - May 31
Mason	GMU 633	5	April 15 - May 31
Bear River	GMU 681	20	April 15 - May 31
Long Beach	GMU 684	12	April 15 - May 31
North Skagit	That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, Weyerhaeuser-Columbia Timber Lands, and Grandy Lake Timber company. Note: Mandatory bear identification test required.	30	April 15 - June 15
Copalis	GMU 642, 648, and 638 (excluding U.S. Forest Service lands).	50	April 15 - June 15

**WSR 20-08-109**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 20-54—Filed March 31, 2020, 9:08 a.m., effective March 31, 2020, 9:08 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The Washington department of fish and wildlife (WDFW) is cancelling youth turkey hunts that start on April 4. WDFW is also delaying the opening of and hunter education instructor turkey incentive permits scheduled to open on April 1, 2020, until further notice. We will reassess to determine when the hunter education instructor turkey incentive permits can open. The next assessment will occur on April 6.

Citation of Rules Affected by this Order: Amending WAC 220-416-010 2018-2019, 2019-2020, 2020-2021 Small game and other wildlife seasons and regulations.

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

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

Reasons for this Finding: WDFW is cancelling youth turkey hunts and delaying hunter education instructor incentive permits that start on April 1 as part of an effort to help slow the spread of the CORVID-19 [COVID-19] coronavirus. This cancellation and delay is necessary to comply with Governor Inslee's recent statewide proclamation for all Washingtonians to stay home for the next two weeks.

There is insufficient time to adopt permanent rule.

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

Number of Sections Adopted at the Request of a 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 31, 2020.

Kelly Susewind  
Director

**NEW SECTION**

**WAC 220-416-01000A 2018-2019, 2019-2020, 2020-2021 Small game and other wildlife seasons and regulations.**

Notwithstanding the provisions of WAC 220-416-010, effective immediately, the changes are as follows:

(10) WILD TURKEY:

(a) YOUTH SEASON: Open only to youth hunters accompanied by an adult 18 years of age or older.

(ii) SEASON DATES:

(B) The season scheduled for April 4-5, 2020 has been canceled.

(e) HUNTER EDUCATION INSTRUCTOR INCENTIVE PERMITS

(iv) SEASON DATES: The season scheduled to open on April 1 is delayed until further notice.

**WSR 20-08-118**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**

[Filed March 31, 2020, 3:34 p.m., effective March 31, 2020, 3:34 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is replacing the list of covered generic products for the treatment of cough and cold. Under the amended rule, the agency instead covers only those products with a preferred status on the medicaid preferred drug list on the date a prescription is dispensed.

Citation of Rules Affected by this Order: Amending WAC 182-530-2000.

Statutory Authority for Adoption: RCW 41.05.021, 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: In response to the current public health emergency surrounding the outbreak of the coronavirus disease (COVID-19), this rule making is necessary to immediately allow the agency the ability to make specific products for the treatment of cough and cold covered by simply updating publications, rather than by changing WAC. This flexibility is necessary to ensure that when products are determined to have evidence of efficacy in treating COVID-19 or its symptoms, they are made available to clients as a covered benefit as quickly as possible.

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 31, 2020.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 19-22-016, filed 10/25/19, effective 11/25/19)

**WAC 182-530-2000 Covered—Outpatient drugs, devices, and drug-related supplies.** (1) The medicaid agency covers:

(a) Outpatient drugs, including over-the-counter (OTC) drugs, as defined in WAC 182-530-1050, subject to the limitations and requirements in this chapter, when:

(i) The drug is approved by the Food and Drug Administration (FDA);

(ii) The drug is for a medically accepted indication as defined in WAC 182-530-1050;

(iii) The drug is not excluded from coverage under WAC 182-530-2100;

(iv) The manufacturer has a signed drug rebate agreement with the federal Department of Health and Human Services (DHHS). Exceptions to the drug rebate requirement are described in WAC 182-530-7500; and

(v) The drug is prescribed by a provider with prescriptive authority. Exceptions to the prescription requirement exist for family planning and emergency contraception in (b) of this subsection.

(b) Family planning drugs, devices, and drug-related supplies per chapter 182-532 WAC and as follows:

(i) OTC family planning drugs, devices, and drug-related supplies without a prescription when the agency determines it necessary for client access and safety;

(ii) Family planning drugs that do not meet the federal drug rebate requirement in WAC 182-530-7500 on a case-by-case basis; and

(iii) Contraceptive patches, contraceptive rings, and oral contraceptives, excluding emergency contraception, when dispensed in a one-year supply only, unless:

(A) A smaller supply is directed by the prescriber;

(B) A smaller supply is requested by the client;

(C) The pharmacy does not have adequate stock.

(c) Vitamins, minerals, and enzymes when prescribed for:

(i) Prenatal vitamins, when prescribed and dispensed to pregnant women;

(ii) A medical condition caused by a clinically documented deficiency;

(iii) A United States Preventive Services Task Force recommendation with an A or B rating;

(iv) Fluoride for clients under age twenty-one; or

(v) A clinically documented medical condition that causes vitamin, mineral, or enzyme deficiencies, and the deficiency cannot be treated through other dietary interventions.

(d) OTC drugs, vitamins, and minerals when determined by the agency to be the least costly therapeutic alternative for a medically accepted indication. All covered OTC products determined to be the least costly therapeutic alternatives for medically accepted indications will be included on the agency's published apple health preferred drug list. This subsection does not apply to products prescribed for the treat-

ment of cough or cold symptoms. See this subsection (1) (h) of this section and WAC 182-530-2100 (1)(b)(v) for coverage of products prescribed for the treatment of cough and cold symptoms.

(e) Drug-related devices and drug-related supplies as an outpatient pharmacy benefit when:

(i) Prescribed by a provider with prescribing authority;

(ii) Essential for the administration of a covered drug;

(iii) Not excluded from coverage under WAC 182-530-2100; and

(iv) Determined by the agency that a product covered under chapter 182-543 WAC related to durable medical equipment and supplies should be available at retail pharmacies.

(f) Preservatives, flavoring, or coloring agents, only when used as a suspending agent in a compound.

(g) OTC and prescription drugs to promote tobacco/nicotine cessation.

(h) ~~((The following generic products))~~ For the treatment of cough and cold(~~(:~~

~~(i) Dextromethorphan 15 mg/5 ml liquid or syrup;~~

~~(ii) Dextromethorphan/Guaifenesin 10 mg—100/5 ml liquid or syrup, including sugar-free formulations;~~

~~(iii) Guaifenesin 100 mg/5 ml liquid or syrup;~~

~~(iv) Phenylephrine 10 mg tablets;~~

~~(v) Phenylephrine 2.5 mg/ml liquid or syrup;~~

~~(vi) Pseudoephedrine 30 mg and 60 mg tablets;~~

~~(vii) Pseudoephedrine 15 mg/5 ml liquid or syrup; and~~

~~(viii) Saline 0.65% nasal spray)),~~ only those products

included with a preferred status on the medicaid preferred drug list (PDL), as described in WAC 182-530-4100, on the date a client's prescription is dispensed.

(2) The agency does not reimburse for any drug, device, or drug-related supply not meeting the coverage requirements under this section.

## WSR 20-08-123

### EMERGENCY RULES

### DEPARTMENT OF

### CHILDREN, YOUTH, AND FAMILIES

[Filed March 31, 2020, 3:52 p.m., effective March 31, 2020, 3:52 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: During the COVID-19 pandemic, relieve DCYF from (1) in-person contact for the purpose of receiving or fulfilling public records requests, copying public records, or allowing inspection of public records, and (2) the requirement to respond to a request for public records within five days of receiving the request.

Citation of Rules Affected by this Order: Amending WAC 110-01-0100 and 110-01-0200.

Statutory Authority for Adoption: RCW 43.216.065 and chapter 42.56 RCW.

Other Authority: Proclamations of the Governor 20-05 and 20-28.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or

general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor's proclamation directed state agencies to do everything reasonably possible to respond to and recover from the COVID-19 outbreak. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. Proclamation of the governor 20-28 amends Proclamation 20-05 and directs state agencies to limit personal contact through social distancing and limit person-to-person contact. Proclamation 20-28 waives and suspends any in-person contact related to public records requests and the requirement that a state agency respond to requests within five days of receipt.

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 2, 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 31, 2020.

Brenda Villarreal  
Rules Coordinator

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

**WAC 110-01-0100 Availability of public records.** Pursuant to proclamation 20-28 and any subsequent proclamation, or other gubernatorial or legislative action suspending the requirements of RCW 42.56.080, .090, or .100, public inspection is not permitted. ((Public records are available for inspection and copying during the department's normal business hours, Monday through Friday, 8 a.m. to 5 p.m., excluding legal holidays. A department staff person must be present at all times when a record is being inspected. Appointments are not required, but significantly help the department provide prompt and efficient service. Some department records may be stored in other locations, in computer storage systems, or the state records warehouse, and may take time to identify and gather. Other records may be exempt from disclosure. Original records cannot be removed from the inspection location. If required by law, department staff must redact information in a record before making it available for inspection. Department staff will make copies of records on request.))

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

**WAC 110-01-0200 How the department responds to public records requests.** The department will respond to public record requests in a reasonable amount of time given the unique circumstances of the COVID-19 pandemic. ((Within five business days of receiving the request,)) When the department receives a request for records, the department will either:

- (1) Provide the record;
- (2) Acknowledge the request and give a reasonable time estimate of how long the department will take to provide records;
- (3) Contact the requestor to clarify the request if it isn't understood by the public records officer; or
- (4) Deny all or part of the request in writing, with reasons for the denial. The explanation will include the law that the department relied upon in its denial.

At his or her discretion, the public records officer may send the requested records by email, fax, postal mail, or commercial delivery. The records may be delivered on paper, computer or compact discs, or other methods.