

WSR 23-24-004
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed November 27, 2023, 9:14 a.m., effective November 27, 2023, 9:14 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

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

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

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 17, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

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

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

Date Adopted: November 27, 2023.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-4751.1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Course of study includes:

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

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

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

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

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

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

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

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

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

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

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

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

(2) Course of study does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 392-121-182 Alternative learning experience requirements.

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

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

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

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

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

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

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

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

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

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

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

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

(4) **Enrollment count dates.**

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

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

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

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

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

(5) Reporting of student enrollment.

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

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

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

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

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

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

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

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

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

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

(6) Student full-time equivalency.

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

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

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

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

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

OTS-4752.1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 392-122-450 Physical, social, and emotional support (PSES) compliance—Calculations. (1) Funded staffing units will be calculated using each grade level and transition to kindergarten funding formula calculations.

(2) Staffing units will be combined at the district level and compared to the staffing units generated using the prototypical funding model.

(3) Penalty units are determined by subtracting the prototypical funded staff units from the district's actual funded units.

(4) Staff in the S-275 or the supplemental tool not assigned to a valid grade grouping will be included into the high school funding formula.

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

WAC 392-122-500 K-3 class size—Apportionment of state moneys. (1) State moneys for K-3 class size including transition to kindergarten program 09 as defined in Second Substitute House Bill No. 1550 (chapter 420, Laws of 2023) and chapter 392-425 WAC shall be allocated as provided in this chapter.

(2) Elementary teacher allocations based on the prototypical schools formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for grades K-3 and transition to kindergarten program (grade T) will be based upon budgeted grades K-3 and grade T enrollment as stated in the F-203 revenue estimate from September through December for the year budgeted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OTS-4726.2

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

NEW SECTION

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

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

NEW SECTION

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

NEW SECTION

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

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

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

NEW SECTION

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

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

NEW SECTION

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

NEW SECTION

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

NEW SECTION

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

NEW SECTION

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

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

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

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

NEW SECTION

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

NEW SECTION

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

WSR 23-24-047
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-262—Filed November 30, 2023, 4:03 p.m., effective December 1, 2023]

Effective Date of Rule: December 1, 2023.

Purpose: The purpose of this emergency rule is to implement steelhead conservation measures in coastal, Grays Harbor, and Willapa Bay tributaries. This rule will prohibit fishing from a floating device in many tributaries that are open to fishing, reduce steelhead daily limit to two hatchery fish in areas that typically have a three fish limit, require the release of wild rainbow trout, and implement selective gear rules (except only one single point barbless hook allowed) in all waters listed within the WAC text of this filing. In addition, many areas will close to all recreational fishing earlier than scheduled.

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

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

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

Reasons for this Finding: These emergency rules are necessary to protect wild steelhead stocks. Numerous coastal wild steelhead runs are expected to return below escapement targets as they have the past five seasons and have failed to meet management objectives. Outside of the Hoh and Quillayute systems, the rest of coastal systems (Willapa, Chehalis, Humptulips, Upper Quinault, and Queets/Clearwater) have consistently failed to meet their total escapement goal (20,206) for wild steelhead. Forecasted 2023/2024 coastwide steelhead returns (32,596) are again expected to fall short of escapement goals for wild steelhead in many rivers. The rules contained in this filing are expected to result in a reduction of wild steelhead encounters relative to permanent rules in place.

Rules for this year's season follows similar actions as last season to help achieve conservation objectives, including restricting the use of bait and fishing from a boat (in some areas), and enacting early closures to help increase the number of wild steelhead that returned to the spawning grounds.

Enacting these rules follows an extensive public engagement process, which included a two-part virtual town hall series during summer and fall 2023. Hundreds of people joined the Washington department of fish and wildlife (department) fishery managers during these virtual meetings, and many provided feedback on the department's coastal steelhead management web page through an online portal.

Tribal comanagers along the coast have also taken similar steps alongside the department to advance recovery of wild steelhead.

The department continues to operate under its statewide steelhead management plan, which requires the department to prioritize the sustainability of wild coastal steelhead runs by focusing on healthy levels of abundance, productivity, diversity, and distribution.

Additionally, this rule carries forward previously announced changes to salmon daily limits from WSR 23-33-101 and 23-23-040 in areas that remain open to fishing under this rule.

There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 2.

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

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

Date Adopted: November 30, 2023.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000H Freshwater exceptions to statewide rules—

Coast. Effective December 1, 2023, until further notice, the following provisions of WAC 220-312-020, regarding gamefish seasons, fishing from a floating device, and gear and hook restrictions for coastal tributaries, including tributaries of Grays Harbor and Willapa Bay shall be modified as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

(1) Bear River (Pacific Co.):

(a) Effective December 1, 2023, through February 29, 2024:

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

(ii) Release wild rainbow trout.

(b) Effective March 1, 2023, until further notice: All species: Closed.

(2) Big River (Clallam Co.), outside Olympic National Park:

(a) Effective January 1 through February 29, 2024:

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

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

(iii) Release wild rainbow trout.

(b) Effective March 1, 2024, until further notice: All species: Closed.

(3) Black River (Grays Harbor Co.), from the mouth to bridge on 128th Ave SW: Effective December 1 through December 31, 2023: All species: Closed.

(4) Bogachiel River (Clallam Co.):

(a) From the mouth to Mill Creek:

(i) Effective December 1 through December 15, 2023:

- (A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
- (B) Steelhead: Daily limit is 2 hatchery steelhead
- (C) Salmon: Daily limit 1. Release sockeye.
- (ii) Effective December 16, 2023, until further notice:
 - (A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (B) Steelhead: Daily limit is 2 hatchery steelhead
 - (b) From Mill Creek to Hwy. 101 Bridge:
 - (i) Effective December 1 through December 15, 2023:
 - (A) All species: Fishing from a floating device is prohibited.
 - (B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (C) Steelhead: Daily limit is 2 hatchery steelhead
 - (D) Salmon: Daily limit 1. Release sockeye.
 - (ii) Effective December 16, 2023, until further notice:
 - (A) All species: Fishing from a floating device is prohibited.
 - (B) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (C) Steelhead: Daily limit is 2 hatchery steelhead
 - (c) From Hwy. 101 Bridge to Olympic National Park Boundary: Effective December 1, 2023, until further notice:
 - (i) All species: Fishing from a floating device is prohibited.
 - (ii) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (iii) Steelhead: Daily limit is 2 hatchery steelhead.
- (5) Calawah River: (Clallam Co.):**
 - (a) From the mouth to the Hwy. 101 Bridge:
 - (i) Effective December 1 through December 15, 2023:
 - (A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (B) Steelhead: Daily limit is 2 hatchery steelhead.
 - (C) Salmon: Daily limit 1. Release sockeye.
 - (ii) Effective December 16, 2023, until further notice:
 - (A) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (B) Steelhead: Daily limit is 2 hatchery steelhead.
 - (b) From the Hwy. 101 Bridge to the forks: Effective December 1, 2023, until further notice:
 - (i) All species: Fishing from a floating device is prohibited.
 - (ii) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (iii) Steelhead: Daily limit is 2 hatchery steelhead.
- (6) Calawah, South Fork (Clallam Co.),** from the mouth to Olympic National Park boundary: Effective December 1, 2023, through February 29, 2024:
 - (a) All species: Fishing from a floating device is prohibited.
 - (b) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
- (7) Cedar Creek (Jefferson Co.),** outside Olympic National Park boundary: Effective December 1, 2023, through February 29, 2024:
 - (a) All species: Fishing from a floating device is prohibited.
 - (b) All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.
 - (c) Release wild rainbow trout.

(8) Chehalis River (Grays Harbor Co.): From the mouth upstream, including all forks: Effective December 1, 2023, until further notice: All species: Closed.

(9) Clearwater River (Jefferson Co.), from the mouth to Snahapish River: Effective December 1, 2023, until further notice: All species: Closed.

(10) Cloquallum Creek (Grays Harbor/Mason Co.), from the mouth to the outlet at Stump Lake: Effective December 1, 2023, through February 29, 2024: All species: Closed.

(11) Copalis River (Grays Harbor Co.): Effective December 1, 2023, through February 29, 2024: All species: Closed.

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

(a) Effective December 1 through December 15, 2023:

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

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

(iii) Salmon: Salmon: Daily limit 1. Release sockeye.

(b) Effective December 16, 2023, until further notice:

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

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

(13) Dickey River, East Fork and West Fork: Effective December 1, 2023, until further notice:

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

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

(14) Elk Creek (Lewis/Pacific Co.): Effective January 1, 2023, until further notice: All species: Closed.

(15) Elk River (Grays Harbor Co.): Effective December 1, 2023, through February 29, 2024: All species: Closed.

(16) Goodman Creek (Jefferson Co.), outside of Olympic National Park boundary: Effective December 1, 2023, through February 29, 2024:

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

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

(c) Release wild rainbow trout.

(17) Hoh River (Jefferson Co.):

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

(i) Effective December 1 through December 15, 2023:

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

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

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

(D) Salmon: Daily limit 1. Release all salmon other than coho.

(ii) Effective December 16, 2023, until further notice:

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

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

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

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

(i) December 1 through December 15, 2023:

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

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

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

(D) Salmon: Daily limit 1. Release all salmon other than coho.

(ii) Effective December 16, 2023, until further notice:

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

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

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

(c) From Morgans Crossing boat launch to Olympic National Park boundary below mouth of South Fork Hoh River: Effective December 1, 2023, until further notice:

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

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

(18) Hoh River, South Fork (Jefferson Co.), outside of Olympic National Park boundary: Effective December 1, 2023, until further notice:

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

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

(19) Hoquiam River including West and East forks (Grays Harbor Co.): Effective December 1, 2023, through February 29, 2024: All species: Closed.

(20) Humptulips River (Grays Harbor Co.): From the mouth to confluence of East and West forks and West Fork from mouth to Donkey Creek: Effective December 1, 2023, until further notice: All species: Closed.

(21) Joe Creek (Grays Harbor Co.), from the mouth to Ocean Beach Rd. Bridge: Effective December 1 through December 31, 2023: All species: Closed.

(22) Johns River (Grays Harbor Co.), from the mouth (Hwy. 105 Bridge) to Ballon Creek: Effective December 1, 2023, through February 29, 2024: All species: Closed.

(23) Kalaloch Creek (Jefferson Co.), outside Olympic National Park boundary: Effective December 1, 2023, through February 29, 2024:

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

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

(c) Release wild rainbow trout.

(24) Moclips River (Grays Harbor Co.), from the mouth to Quinault Indian Reservation boundary: Effective December 1, 2023, through February 29, 2024: All species: Closed.

(25) Mosquito Creek (Jefferson Co.), from Olympic National Park boundary upstream to Goodman 3000 Mainline Bridge: Effective December 1, 2023, through February 29, 2024:

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

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

(c) Release wild rainbow trout.

(26) Naselle River (Pacific Co.), from the Hwy. 101 Bridge to the North Fork: Effective December 1, 2023, until further notice:

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

(b) Release wild rainbow trout.

(27) Naselle River, South (Pacific Co.), from the mouth to Bean Creek: Effective December 1, 2023, through February 29, 2024:

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

(b) Release wild rainbow trout.

(28) Nemah River, Middle (Pacific Co.):

(a) Effective December 1, 2023, through February 29, 2024:

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

(ii) Release wild rainbow trout.

(b) Effective March 1, 2024, until further notice: All species: Closed

(29) Nemah River, North (Pacific Co.), from Hwy. 101 Bridge to Cruiser Creek:

(a) Effective December 1, 2023, through February 29, 2024:

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

(ii) Release wild rainbow trout.

(b) Effective March 1, 2024, until further notice: All species: Closed

(30) Nemah River, South (Pacific Co.):

(a) Effective December 1, 2023, through February 29, 2024:

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

(ii) Release wild rainbow trout.

(b) Effective March 1, 2024, until further notice: All species: Closed

(31) Newaukum River, including South Fork (Lewis Co.), from mouth to Hwy. 508 Bridge near Kearny Creek: Effective December 1, 2023, until further notice: All species: Closed.

(32) Newaukum River, Middle Fork (Lewis Co.), from mouth to Taucher Rd. Bridge: Effective December 1, 2023, until further notice: All species: Closed.

(33) Newaukum River, North (Lewis Co.), from mouth to 400' below Chehalis City water intake: Effective December 1, 2023, until further notice: All species: Closed.

(34) North River (Grays Harbor/Pacific Co.), from the Hwy. 105 bridge to Raimie Creek: Effective December 1, 2023, through February 29, 2024:

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

(b) Release wild rainbow trout.

(35) Palix River (Pacific Co.):

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

(i) Effective December 1, 2023, through February 29, 2024:

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

(B) Release wild rainbow trout.

(ii) Effective March 1, 2024, until further notice: All species: Closed

(b) From the confluence with the Middle Fork upstream and all forks (including South fork Palix River and Canon River):

(a) Effective December 16, 2023, through February 29, 2024:

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

(ii) Release wild rainbow trout.

(b) Effective March 1, 2024, until further notice: All species: Closed

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

(a) Effective December 1 through December 15, 2023:

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

(ii) Steelhead: Daily limit 2 hatchery steelhead.

(iii) Salmon: Daily limit 1. Release sockeye.

(b) Effective December 16, 2023, until further notice:

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

(ii) Steelhead: Daily limit 2 hatchery steelhead.

(37) Quinault River (Grays Harbor/Jefferson Co.), from the mouth at upper end of Quinault Lake upstream to Olympic National Park boundary: Effective December 1, 2023, until further notice: All species: Closed.

(38) Salmon Creek (Pacific/Wahkiakum Co.): Effective December 16, 2023, through February 29, 2024:

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

(b) Release wild rainbow trout.

(39) Salmon River (Jefferson Co.): Effective December 1, 2023, through February 29, 2024: All species: Closed.

(40) Satsop River and East Fork (Grays Harbor Co.): Effective December 1, 2023, until further notice: All species: Closed.

(41) Satsop River, Middle Fork (Grays Harbor Co.), Effective December 1, 2023, through February 29, 2024: All species: Closed.

(42) Satsop River, West Fork (Grays Harbor Co.), Effective December 1, 2023, through February 29, 2024: All species: Closed.

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

(44) Smith Creek (near North River) (Pacific Co.): Effective December 1, 2023, through February 29, 2024:

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

(b) Release wild rainbow trout.

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

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

(i) Effective December 1 through December 15, 2023:

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

(B) Salmon: Daily limit 1. Release sockeye.

(ii) Effective December 16, 2023, until further notice: All species: Selective Gear Rules in effect, except only 1 single-point barbless hook is allowed.

(b) From the concrete pump station at Sol Duc Hatchery to Hwy. 101 Bridge upstream of Klahowya campground: Effective December 1, 2023, until further notice:

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

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

(46) Sooes River (Clallam Co.), outside of Makah Indian Reservation: Effective December 1, 2023, through February 29, 2024:

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

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

(c) Release wild rainbow trout.

(47) Stevens Creek (Grays Harbor Co.), from mouth to Hwy 101 Bridge: Effective December 1, 2023, through February 29, 2024: All Species: Closed.

(48) Thunder Creek (Clallam Co.), from mouth to D2400 Rd.: Effective December 1, 2023, until further notice:

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

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

(c) Release wild rainbow trout.

(49) Van Winkle Creek (Grays Harbor Co.), from mouth to 400 feet below outlet of Lake Aberdeen Hatchery: Effective December 1, 2023, until further notice: All species: Closed

(50) Willapa River (Pacific Co.), from mouth (City of South Bend boat launch) to Hwy. 6 Bridge (near the town of Lebam): Effective December 1, 2023, until further notice:

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

(b) Release wild rainbow trout.

(51) Willapa River, South Fork (Pacific Co.): Effective December 1, 2023, through February 29, 2024:

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

(b) Release wild rainbow trout.

(52) Wishkah River (Grays Harbor Co.), from the mouth to 200 feet below the weir at the Wishkah Rearing Ponds and from 150 feet upstream to 150 feet downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary): Effective December 1, 2023, through February 29, 2024: All species: Closed.

(53) Wynoochee River (Grays Harbor Co.): From the mouth upstream: Effective December 1, 2023, until further notice: All species: Closed.

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

REPEALER

The following sections of Washington Administrative Code are repealed, effective December 1, 2023:

WAC 220-312-02000F Freshwater exceptions to statewide rules—Coast. (23-240)

WAC 220-312-02000G Freshwater exceptions to statewide rules—Coast. (23-249)

WSR 23-24-052

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed December 1, 2023, 10:42 a.m., effective December 1, 2023, 10:42 a.m.]

Effective Date of Rule: Immediately upon filing.

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

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

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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

Reasons for this Finding: The legislature directed that the civil transition program take effect December 1, 2023. See RCW 10.77.202 (sections 13 and 31, chapter 453, Laws of 2023).

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

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

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

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

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

Date Adopted: December 1, 2023.

Wendy Barcus
Rules Coordinator

OTS-5101.1

NEW SECTION

WAC 182-538B-180 Civil transition program (CTP)—Overview. (1)

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

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

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

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

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

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

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

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

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

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

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

(6) **Client participation.**

(a) A person who is not otherwise eligible for a noninstitutional medical program must have client participation and room and board.

Home and community-based services waiver eligibility and cost of care calculations are under:

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

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

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

(7) **Effective dates.**

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

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

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

(b) Eligibility for the CTP ends:

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

(ii) When the person dies;

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

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

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

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

WSR 23-24-074
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-263—Filed December 4, 2023, 3:16 p.m., effective December 5, 2023]

Effective Date of Rule: December 5, 2023.

Purpose: The purpose of this emergency rule is to increase the pot limit in Crab Management Region 1 to 45 pots per license.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500B and 220-340-47000X; and amending WAC 220-340-455 and 220-340-470.

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: There is sufficient allocation remaining to accommodate harvest in the Puget Sound commercial crab fishery in Regions 1, 3-1, 3-2, 3-3, and 3-4 until further notice. Crab Management Regions 2-West and 2-East will remain closed due to the attainment of the state share. The pot limit in Crab Management Region 1 has been increased to 45 pots following coordination with the industry. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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

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

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

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

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

Date Adopted: December 4, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500C Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455, effective December 5, 2023, until further notice:

(1) Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest for these areas after the opening date is permitted starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately until further notice.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately until further notice.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	Closed.
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	Closed.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	Closed.
Subregion 3-1	Immediately until further notice.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately until further notice.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately until further notice.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	Immediately until further notice.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately until further notice.
Subregion 3-4	Immediately until further notice.

(2) The area closed to commercial harvest in WAC 220-340-455 (2) (c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

NEW SECTION

WAC 220-340-47000Y Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas Notwithstanding the provisions of 220-340-470, effective December 5, 2023, until further notice:

Effective during the "Open period" listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest crabs with more than the "Pot limit" per license per buoy tag number indicated within each "geographical management unit".

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	45
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	45
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3))	0
Region 2E, Everett Flats CSMA (WAC 220-320-120(3))	0

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5))	0
Subregion 3-1	40
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	35
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	50
Subregion 3-4	50

REPEALER

The following sections of Washington Administrative Code are repealed, effective December 5, 2023:

- WAC 220-340-45500B Commercial crab fishery—Seasons and areas—Puget Sound. (23-258)
- WAC 220-340-47000X Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas. (23-258)

WSR 23-24-094

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed December 6, 2023, 8:53 a.m., effective December 6, 2023, 8:53 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule-making order amends chapter 16-470 WAC, Quarantine—Agricultural pests, to expand the boundaries of the internal quarantine for Japanese beetle within Washington state. The quarantine prohibits regulated articles located inside the quarantine area from moving outside of it. The quarantine prevents potentially infested host material from being transported to other parts of the state, thereby limiting the spread of Japanese beetle and protecting noninfested areas from infestation.

Citation of Rules Affected by this Order: Amending WAC 16-470-105.

Statutory Authority for Adoption: RCW 17.24.011 and 17.24.041.

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: Immediate amendment of the rule is necessary for the general welfare of the public. Japanese beetle (*Popillia japonica* Newman) is a highly invasive plant pest native to Japan. It has been known to cause severe damage to more than 300 species of ornamental and agricultural plants, including roses, grapes, and hops. Adult beetles damage plants by skeletonizing foliage and feeding on buds, flowers, and fruit. The larvae also damage the roots of plants, such as turf grass. Although this feeding does not always kill the plant, it weakens it and may reduce the plant's overall yield.

In 2021, the department caught 24,048 Japanese beetles in the current internal quarantine area. Throughout 2021 and 2022, the department took extensive measures to reduce the spread of the beetle, with an ultimate goal of eradicating it. Measures that have been taken include treating residential and public properties with pesticide, trapping, and establishing an internal quarantine. Despite these efforts, by the end of the 2022 trapping season, numerous Japanese beetles, which indicate a reproducing population, were caught outside of the currently established internal quarantine area. Due to this, immediate action is needed to expand the internal Japanese beetle quarantine to more accurately reflect the area of infestation in order to prevent the beetles from spreading into noninfested areas.

If Japanese beetle becomes permanently established throughout the state, it could severely threaten several of Washington's agricultural industries. The threat this pest poses is particularly concerning due to the area in which the detections have occurred. There are a number of farms and nurseries in close proximity to the detection sites, growing plant species known to be targeted by Japanese beetle. Not only do these beetles pose a threat to the plants themselves, but if established, they have the potential to impact the availability of export markets for agricultural commodities grown in the area. Expanding the Japanese beetle internal quarantine will help prevent the spread of this invasive pest and protect Washington's agricultural industries, as well as maintain access to national and international markets.

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

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

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

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

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

Date Adopted: December 6, 2023.

Derek I. Sandison
Director

OTS-4226.1

AMENDATORY SECTION (Amending WSR 22-17-068, filed 8/15/22, effective 9/15/22)

WAC 16-470-705 Areas under quarantine. (1) Exterior: The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario and Quebec, and any other state, province, parish, or county where infestations of Japanese beetle are detected are declared to be under quarantine for Japanese beetle.

(a) The director may exempt individual counties of the states under quarantine from meeting the conditions in WAC 16-470-715 if the director determines that:

(i) The state has adopted and is enforcing restrictions on the interstate and intrastate movement of regulated articles that are equivalent to or exceed the restrictions placed on the movement of regulated articles as provided in WAC 16-470-715; and

(ii) Annual surveys are conducted in such counties and the results of these surveys are negative for Japanese beetle; and

(iii) One or more neighboring counties are not subject to an unacceptable heavy Japanese beetle infestation.

(b) A plant health official of any state may request exemption of one or more counties under this subsection. The request must be in writing, and it must state the area surveyed, the survey method, personnel conducting the survey, and dates of any previous Japanese beetle infestations in that county.

(2) Interior: Within the state of Washington, those areas where infestations of Japanese beetle exist are declared to be under quarantine. These areas include the portion of Yakima and Benton counties designated as follows: Beginning within Yakima County at latitude

N46°18'8" and longitude W120°0'26"; thence easterly ((across the Yakima-Benton County line to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°16'21" and longitude W119°51'40"; thence easterly to longitude W119°50'25"; thence southerly to latitude N46°13'44" and longitude W119°50'27"; thence westerly to latitude N46°13'44" and longitude W119°51'42"; thence southerly to latitude N46°12'00" and longitude W119°51'42"; thence westerly across the Yakima-Benton County line to latitude N46°12'3" and longitude W119°59'14"; thence northerly to latitude N46°14'39" and longitude W119°59'12"; thence westerly to longitude W120°0'28")) to latitude N46°18'8" and longitude W119°59'11"; thence northerly to latitude N46°19'0" and longitude W119°59'10"; thence easterly across the Yakima-Benton County line to latitude N46°18'57" and longitude W119°50'23"; thence southerly to latitude N46°18'5" and longitude W119°50'24"; thence westerly to latitude N46°18'5" and longitude W119°51'39"; thence southerly to latitude N46°17'13" and longitude W119°51'40"; thence easterly to latitude N46°17'13" and longitude W119°50'25"; thence southerly to latitude N46°16'21" and longitude W119°50'25"; thence easterly to latitude N46°16'20" and longitude W119°49'10"; thence southerly to latitude N46°15'28" and longitude W119°49'11"; thence easterly to latitude N46°15'28" and longitude W119°47'56"; thence southerly to latitude N46°14'35" and longitude W119°47'56"; thence westerly to latitude N46°14'36" and longitude W119°49'11"; thence southerly to latitude N46°12'52" and longitude W119°49'13"; thence westerly to latitude N46°12'53" and longitude W119°51'43"; thence southerly to latitude N46°11'8" and longitude W119°51'44"; thence westerly across the Yakima-Benton County line to latitude N46°11'11" and longitude W120°0'29"; thence northerly to the Yakama Nation Reservation boundary line; thence northerly and easterly, and turning westerly along the Yakama Nation Reservation boundary line to longitude W120°0'28"; thence northerly to latitude N46°14'39" and longitude W120°0'28"; thence westerly to latitude N46°14'40" and longitude W120°1'43"; thence northerly to latitude N46°16'24" and longitude W120°1'42"; thence easterly to latitude N46°16'24" and longitude W120°0'27"; thence northerly to the point of beginning.

