

WSR 24-10-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-57—Filed April 18, 2024, 8:41 a.m., effective April 20, 2024]

Effective Date of Rule: April 20, 2024.

Purpose: The purpose of this emergency rule is to close recreational salmon seasons in Catch Record Card Area 5.

Citation of Rules Affected by this Order: Amending WAC 220-313-060.

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

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

Reasons for this Finding: Estimates of landed catch to date indicate that anglers have reached 98 percent of the sublegal encounters (3,616 of 3,707) agreed to in this year's list of agreed fisheries. To meet conservation goals and avoid exceeding the fishery objectives, it will close beginning Saturday April 20, 2024.

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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 17, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000T Puget Sound salmon—Saltwater seasons and daily limits. Effective April 20 through April 30, 2024, the following provisions of WAC 220-313-060 regarding salmon seasons for Marine Area 5 shall be modified as described below. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Catch Record Card Area 5: Salmon: Closed.

WSR 24-10-006
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed April 18, 2024, 10:40 a.m., effective April 18, 2024, 10:40 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule making is to extend the apportionment advance request and payout periods for school districts and charter schools, and to establish requirements for repayment assurance and apportionment advance repayment schedules for funds received. As a result of enrollment declines, expiring access to federal COVID[-19] relief, unanticipated rise in uncontrollable costs, and other unforeseen events, many districts have experienced unprecedented financial difficulties. Extending the apportionment request, payout, and repayment periods would allow districts to access funds that are essential for the continuity of operations, maintenance, and other education services.

Citation of Rules Affected by this Order: Amending WAC 392-121-436, 392-121-438, and 392-121-443.

Statutory Authority for Adoption: RCW 28A.150.290, 28A.710.220.

Other Authority: RCW 28A.510.250.

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

Reasons for this Finding: Given the unprecedented financial effects of enrollment declines, expiring access to federal COVID[-19] relief, unanticipated rise in uncontrollable costs, and other unforeseen events, the immediate adoption of this emergency rule to extend districts' and charter schools' access to apportionment advances is necessary for the preservation of public health, safety, and the general welfare.

The office of superintendent of public instruction will also conduct permanent rule making concerning the extension of apportionment advance request, payout, and repayment periods.

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 3, Repealed 0.

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

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

Date Adopted: April 16, 2024.

Chris P. S. Reykdal
State Superintendent of Public Instruction

OTS-5363.1

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

WAC 392-121-436 Emergency advance payments—School district application. The board of directors of a school district or a charter school board may apply for any emergency advance on the school district's or charter school's basic education allocation. The application shall take the form of a resolution adopted by the board setting forth the following:

- (1) The nature of the unforeseen condition requiring the advance;
- (2) The amount requested to be advanced;
- (3) The net cash and investment balance of the general fund as of the date of the resolution;
- (4) A forecast of the general fund receipts, disbursements, and net cash and investment balance for each month remaining in the fiscal year; ~~((and))~~
- (5) A disclosure of any existing or planned general fund revenue anticipation notes ~~((-))~~;
- (6) A disclosure of any existing or planned general fund loan to or from another fund of the school district or charter school; and
- (7) A written acknowledgment that funds advanced will be repaid in accordance with WAC 392-121-443, subject to approval by the superintendent of public instruction.

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

WAC 392-121-438 Emergency advance payments—Approval criteria. The superintendent of public instruction shall approve requests for an emergency advance if the following conditions are met:

- (1) The unforeseen condition causing the need for the emergency advance could not have been anticipated by a reasonably prudent person.
- (2) It is probable that if the emergency advance is not made that the school district or charter school will be on:
 - (a) An interest-bearing, warrant-issuing basis within two months following the receipt of the resolution; and
 - (b) Warrant interest for at least three months from September through June.
- (3) The school district or charter school shall not have:
 - (a) Cash investments of the general fund during the months it estimates that it would pay warrant interest except for the emergency advance; or
 - (b) Inter-fund loans from the general fund to any other funds during the months it estimates that it would pay warrant interest; or
 - (c) Any existing or anticipated general fund revenue anticipated notes.

Applications and payouts for apportionment advances can be processed only during the months of October through July. Advance requests for the months of May and June shall not be approved if the superintendent of public instruction determines that the school district

or charter school would be short paid at the end of the fiscal year due to lack of appropriation of funds after considering transfer authority.

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

WAC 392-121-443 Emergency advance payments—Repayment of advances. Repayments of advances will be accomplished by a reduction in the school district's or charter school's apportionment payments ~~((~~en~~))~~. Under RCW 28A.510.250, all apportionment advances must be repaid during the apportionment year in which the funds are advanced. The repayment requirements are defined as follows:

(1) For advances received before June, at least 50 percent of the amount advanced must be repaid in or before June (~~(in)~~) of the current school year, with the remaining balance repaid no later than August of the current school year.

(2) For advances received in June, at least 50 percent of the amount advanced must be repaid in July of the current school year, with the remaining balance paid in August of the current school year.

(3) For advances received in July, the full balance must be repaid in August of the current school year.

(4) In no instance can an apportionment advance be repaid and re-approved in the subsequent month.

**WSR 24-10-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 24-58—Filed April 18, 2024, 12:20 p.m., effective April 23, 2024]

Effective Date of Rule: April 23, 2024.

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

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

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

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

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

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

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

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

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

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

Date Adopted: April 18, 2024.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 a.m. April 23 through 11:59 a.m. April 29, 2024, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 on dates and times listed below:

Razor Clam Area	Date	Time
Area 1	April 24 through April 29	From 12:01 a.m. to 11:59 a.m.
Area 2	Closed	Closed

Razor Clam Area	Date	Time
Area 3	April 25 through April 28	From 12:01 a.m. to 11:59 a.m.
Area 4	April 23, 26, and 27	From 12:01 a.m. to 11:59 a.m.
Area 5	April 24, 25, 28 and 29	From 12:01 a.m. to 11:59 a.m.
Area 6	Closed	Closed
Area 7	Closed	Closed

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 30, 2024:

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

WSR 24-10-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-59—Filed April 18, 2024, 4:07 p.m., effective April 24, 2024]

Effective Date of Rule: April 24, 2024.

Purpose: This emergency rule is needed to open recreational salmon seasons targeting hatchery Chinook in a portion of Skagit River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

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

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

Reasons for this Finding: This rule is necessary to open salmon seasons in the Skagit River as agreed to with comanagers during the 2024 North of Falcon proceedings. Harvestable numbers of hatchery spring Chinook are forecast to return to Marblemount Hatchery. 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 0.

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

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

Date Adopted: April 18, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000E Freshwater exceptions to statewide rules—Puget Sound. Effective April 24 through May 31, 2024, the following provisions of WAC 220-312-040 and WAC 220-220-160 regarding salmon seasons and two-pole fishing for the Skagit River from the Hwy. 536 Bridge in Mt. Vernon to Gilligan Creek, shall be as described below. All other provisions of WAC 220-312-040 and WAC 220-220-160 not addressed herein, or unless otherwise amended, remain in effect:

Skagit River (Skagit Co.): From the Hwy. 536 (Memorial Hwy.) Bridge in Mt. Vernon to Gilligan Creek: Salmon:

(a) Daily limit 2. Release all salmon other than hatchery Chinook.

(b) Night Closure in effect.

(c) Anglers who possess a valid two-pole endorsement may fish with two lines.

(d) All species other than salmon are closed to fishing for or retaining.

WSR 24-10-015

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed April 19, 2024, 9:09 a.m., effective April 19, 2024, 9:09 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Washington's health care and emergency and logistics tracking hub (WA HEALTH) reporting for acute care hospitals; new WAC 246-320-700 Reporting of health system readiness data. The department of health (department) is extending this emergency rule to continue to require acute care hospitals in Washington state, licensed under chapter 70.41 RCW, to report hospital maintenance and operation data to the department through WA HEALTH in accordance with the WA HEALTH User Guide. This emergency rule continues, without change, the emergency rule originally filed on August 31, 2022, as WSR 22-18-060, and extended on December 29, 2022, as WSR 23-02-036; April 28, 2023, as WSR 23-10-047; August 25, 2023, as WSR 23-18-015; and December 22, 2023, as WSR 24-02-023.

Citation of Rules Affected by this Order: New WAC 246-320-700.

Statutory Authority for Adoption: RCW 70.41.030.

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: WA HEALTH was created to provide decision-makers and leaders across the state with timely data and information to understand and respond to health care system impacts from coronavirus disease 2019 (COVID-19). WA HEALTH continues to be used daily for state and local public health and medical preparedness planning to inform planned patient movement, communicable respiratory hospitalizations, and disease trends such as COVID-19, influenza, and respiratory syncytial virus (RSV), and the ability of the system to absorb another health care surge.

WA HEALTH reporting data is critical to keeping good situational awareness of the system's current status and overall capacity. It also allows for coordinated preparedness planning and more timely action in the event of future man-made, natural, and public health threats. Without the WA HEALTH system, we lose critical visibility over our health care systems and the ability to prepare for these key data sets and sectors.

The adoption of this rule as an emergency rule is necessary to allow for the continuation of critical public health reporting. It continues to be essential to have state level awareness, monitoring and memorization of timely and accurate data pertaining to hospital patient volumes, capacities, and resource constraints as there continues to be a lack of surge capacity on Washington's health care system. The WA HEALTH system helps to ensure continued health system readiness, promote safe and adequate care of individuals in hospitals, and mitigate the impact of current and emerging public health threats and associated surges.

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 0.

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

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

Date Adopted: April 19, 2024.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-3921.2

NEW SECTION

WAC 246-320-700 Reporting of health system readiness data. The purpose of this section is to outline each hospital's responsibility for reporting to the department data pertaining to the maintenance and operation of the hospital in support of health system readiness.

(1) For the purposes of this section:

"WA HEALTH User Guide" means the written instructions issued by the department for reporting to the department hospital maintenance and operation data pertaining to health system readiness.

(2) Hospitals must report data to the department in accordance with the WA HEALTH User Guide, including any amended versions thereof issued by the department. Copies of the WA HEALTH User Guide may be obtained on the department's website or by contacting the department.

(3) Any person who receives data reported under this section must maintain confidentiality of the data as required by applicable law.

WSR 24-10-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-60—Filed April 23, 2024, 3:20 p.m., effective May 1, 2024]

Effective Date of Rule: May 1, 2024.

Purpose: The purpose of this emergency rule is set seasons for 2024 coastal salmon troll fisheries.

Citation of Rules Affected by this Order: Amending WAC 220-354-300.

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

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

Reasons for this Finding: A harvestable quota of salmon is available for the troll fleet. This regulation is necessary to both meet conservation limits and to provide fishing opportunity and its corresponding economic benefit. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans, and have been adopted for federal waters by the National Oceanic and Atmospheric Administration. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 23, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-30000B Coastal salmon troll seasons—Commercial.

Notwithstanding the provisions of WAC 220-354-300, WAC 220-353-050, and WAC 220-354-010, effective May 1, 2024, until further notice, it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons and under conditions provided below:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3, and that portion of Area 4 west of 125°05'00"W longitude and south of 48°23'00"N latitude open: May 1 through June 29, 2024.

(2) Grays Harbor Control Zone, defined by a line drawn from the Westport Lighthouse (46°53'18"N. lat., 124°07'01"W. long.); thence to Buoy #2 (46°52'42"N. lat., 124°12'42"W. long.); thence to Buoy #3 (46°55'00"N. lat., 124°14'48"W. long.); thence to the Grays Harbor north jetty (46°55'36"N. lat., 124°10'51"W. long.), open: May 1 through June 29, 2024.

(3) In Washington Catch Reporting Areas 1, 2, 3 and 4, landing and possession limits combined across all areas of:

(a) 150 Chinook per vessel for the period May 1 through May 8

(b) 150 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday, from May 9 through June 29

(4) In Washington Catch Reporting Area 1, landing and possession limits of:

(a) 60 Chinook per vessel for the period May 1 through May 8

(b) 60 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday, from May 9 through June 29

(5) In Washington Catch Reporting Area 2, landing and possession limits of:

(a) 150 Chinook per vessel for the period May 1 through May 8

(b) 150 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday, from May 9 through June 29

(6) In Washington Catch Reporting Areas 3 and 4, landing and possession limits of:

(a) 60 Chinook per vessel for the period May 1 through May 8

(b) 60 Chinook per vessel per landing per landing week, defined as Thursday through Wednesday, from May 9 through June 29

(7) Vessels fishing in an area with a higher landing and possession limit may transit through an area with a lower limit, provided reporting requirements in this section are met when crossing the Queets River or Leadbetter Point lines.

(8) The Cape Flattery and Columbia River Control Zones are closed. The Salmon Troll Yelloweye Rockfish Conservation Area is closed.

(9) Minimum size for Chinook salmon is 27 inches in length (20 1/2 inches frozen dressed). No minimum size for pink, sockeye or chum salmon. It is unlawful to possess coho salmon.

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279, faxing the information to (360) 902-2949, or e-mailing to trollfishtickets@dfw.wa.gov. Report the dealer's name, the dealer license number, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species, the total number for each species, and the total weight for each species, including halibut.

(12) During any single trip, only one side of the Leadbetter Point line (46°38'10"N. lat.) may be fished.

(a) Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver all species of fish within the area south of Leadbetter Point.

(b) For delivery to Washington ports south of Leadbetter Point, vessels must notify WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov prior to crossing the Leadbetter Point line with area fished, total Chinook and halibut catch aboard, and destination with approximate time of delivery.

(c) Vessels may not land fish east of Tongue Point, Oregon.

(13) Vessels fishing or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll and/or salmon delivery license.

(a) Vessels in possession of salmon south of the Queets River may not cross the Queets River line (47°31'42"N. lat.) without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook and halibut catch aboard and destination.

(b) Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 or by email at Danielle.Williams@dfw.wa.gov with area fished, total Chinook and halibut catch aboard and destination.

(c) Vessels may not land fish east of the Sekiu River.

WSR 24-10-045
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed April 24, 2024, 10:57 a.m., effective April 25, 2024]

Effective Date of Rule: April 25, 2024.

Purpose: The department of social and health services (department) is extending emergency amendments to WAC 388-416-0005 How long can I get Basic Food? and 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits?; and adding emergency amendments to WAC 388-450-0200 Will the medical expenses of elderly persons or individuals with disabilities in my assistance unit be use as an income deduction for basic food?

These amendments are necessary to comply with the approved federal waiver for the elderly simplified application project (ESAP), extending the basic food certification period from 12 months to 36 months for households where all members are either age 60 or older, disabled adults with no earned income, or both.

This request for an extension of the current emergency filing includes amendments to WAC 388-450-0200; not known when the initial request was filed.

Citation of Rules Affected by this Order: Amending WAC 388-416-0005, 388-418-0011, and 388-450-0200.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.500, 74.04.510, 74.08A.120.

Other Authority: United States Food and Drug Administration, Food and Nutrition Services (waiver approval).

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

Reasons for this Finding: These amendments are necessary to implement final provisions of the federal ESAP waiver to coincide with automation updates supporting this change. Approval of these rules positively affects households where all members are either age 60 or older, disabled adults with no earned income, or both.

The department is concurrently proceeding with the permanent rule-making process. Refer to CR-102 filed as WSR 24-09-023 on April 9, 2024. The public rules hearing is scheduled for May 21, 2024.

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

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

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

Date Adopted: April 24, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5012.5

AMENDATORY SECTION (Amending WSR 11-16-030 and 11-18-012, filed 7/27/11 and 8/26/11, effective 10/16/11)

WAC 388-416-0005 How long can I get Basic Food? (1) The length of time the department determines your assistance unit (AU) is eligible to get Basic Food is called a certification period. The department may certify your AU for up to ~~((twelve))~~ 12 months, unless:

(a) You receive food assistance under the Washington state combined application project (WASHCAP). ~~((7))~~ We set your WASHCAP certification period as described under WAC 388-492-0090.

~~((b))~~ (b) You receive food assistance under the elderly simplified application project (ESAP). ESAP households are certified for 36 months.

~~((c))~~ (c) You receive transitional food assistance ~~((7))~~ (TFA). We set your TFA certification period as described under WAC 388-489-0015.

(2) We terminate your Basic Food benefits before the end of your certification period in subsection (1) of this section if:

(a) You fail to complete a mid-certification review as described under WAC 388-418-0011;

(b) We get proof of a change that makes your AU ineligible; or

(c) We get information that your AU is ineligible and you do not provide needed information to verify your AU's circumstances.

AMENDATORY SECTION (Amending WSR 22-17-080, filed 8/17/22, effective 9/17/22)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances during your certification period. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or basic food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Receive refugee cash assistance as described under WAC 388-400-0030;

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060;

- (iii) Receive a referral to the housing and essential needs (HEN) program as described under WAC 388-400-0070; or
- (iv) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for basic food if:

- (i) Your assistance unit has a certification period of six months or less; or
- (ii) ~~((All adults in your))~~ Your assistance unit ((are)) consists only of elderly or disabled adults, or qualifies for the elderly simplified application project (ESAP), and does not have ((æ)) earned income.

(3) **When we send the review form:**

If you must complete a MCR ...	We send your review form ...
(a) For one program such as basic food.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
<u>(b) If you are no longer eligible for ESAP but remain eligible for basic food for the remainder of a 36-month certification period converted from an ESAP certification.</u>	<u>In the 11th and 23rd months of your certification period when your certification period has more than 13 months remaining of the 36-month certification period. You must complete your review by the 10th day of the 12th month or the 24th month or both of the certification period.</u>
((b)) (c) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
((e)) (d) For basic food and another program when either program has a certification or review period between six and 12 months.	In the fifth month of your basic food certification period when you receive basic food and another program. You must complete your review by the 10th day of month six of your basic food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review form online, or in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

- (i) Complete the review form, telling us about changes in your circumstances we ask about;
- (ii) Sign and date the form;
- (iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;
- (iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and
- (v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you 10 days' notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

AMENDATORY SECTION (Amending WSR 24-05-032, filed 2/13/24, effective 4/1/24)

WAC 388-450-0200 Will the medical expenses of elderly persons or individuals with disabilities in my assistance unit be used as an income deduction for basic food? (1) If your basic food assistance unit (AU) includes an elderly person or individual with a disability as defined in WAC 388-400-0040, your AU may be eligible for an income deduction for that person's out-of-pocket medical expenses. We allow the deduction for medical expenses over \$35.00 each month.

(2) You can use an out-of-pocket medical expense toward this deduction if the expense covers services, supplies, medication, or other medically needed items prescribed by a state-licensed practitioner or other state-certified, qualified, health professional. Examples of expenses you can use for this deduction include those for:

- (a) Medical, psychiatric, naturopathic physician, dental, or chiropractic care;
- (b) Prescribed alternative therapy such as massage or acupuncture;
- (c) Prescription drugs except medical marijuana;
- (d) Over the counter drugs;
- (e) Eye glasses;
- (f) Medical supplies other than special diets;
- (g) Medical equipment or medically needed changes to your home;
- (h) Shipping and handling charges for an allowable medical item.

This includes shipping and handling charges for items purchased through mail order or the internet;

- (i) Long distance calls to a medical provider;
- (j) Hospital and outpatient treatment including:
 - (i) Nursing care; or
 - (ii) Nursing home care including payments made for a person who was an (~~assistance unit~~) AU member at the time of placement.
- (k) Health insurance premiums paid by the person including:
 - (i) Medicare premiums; and
 - (ii) Insurance deductibles and copayments.
- (l) Out-of-pocket expenses used to meet a spenddown as defined in WAC 182-519-0100. We do not allow your entire spenddown obligation as a deduction. We allow the expense as a deduction as it is estimated to occur or as the expense becomes due;
 - (m) Dentures, hearing aids, and prosthetics;
 - (n) Cost to obtain and care for a seeing eye, hearing, or other specially trained service animal. This includes the cost of food and veterinarian bills. We do not allow the expense of food or veterinary bills for a service animal as a deduction if you receive ongoing additional requirements under WAC 388-473-0040 to pay for this need;
 - (o) Reasonable costs of transportation and lodging to obtain medical treatment or services; and
 - (p) Attendant care necessary due to age, infirmity, or illness. If your AU provides most of the attendant's meals, we allow an additional deduction equal to a one-person allotment.

(3) There are two types of deductions for out-of-pocket expenses:

- (a) One-time expenses are expenses that cannot be estimated to occur on a regular basis. You can choose to have us:
 - (i) Allow the one-time expense as a deduction when it is billed or due;
 - (ii) Average the expense through the remainder of your certification period; or
 - (iii) If your AU has a ((24)) 36-month certification period, you can choose to use the expense as a one-time deduction, average the expense for the first 12 months of your certification period, or average it for the remainder of (~~our~~) your certification period.
 - (b) Recurring expenses are expenses that happen on a regular basis. We estimate your monthly expenses for the certification period.
- (4) We do not allow a medical expense as an income deduction if:
- (a) The expense was paid before you applied for benefits or in a previous certification period;
 - (b) The expense was paid or will be paid by someone else;
 - (c) The expense was paid or will be paid by the department or another agency;
 - (d) The expense is covered by health care insurance;

(e) We previously allowed the expense, and you did not pay it. We do not allow the expense again even if it is part of a repayment agreement;

(f) You included the expense in a repayment agreement after failing to meet a previous agreement for the same expense; or

(g) You claim the expense after you have been denied for presumptive SSI; and you are not considered disabled by any other criteria.

WSR 24-10-049

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed April 24, 2024, 4:16 p.m., effective April 24, 2024, 4:16 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Drinking water state revolving fund (DWSRF) loan program, federal Bipartisan Infrastructure Law (BIL) requirements for disadvantaged communities, and loans for lead service line (LSL) identification and replacement.

The department of health (department) adopted emergency rules on August 30, 2023 (WSR 23-18-044), and a second emergency rule December 29, 2023 (WSR 24-02-060), to amend chapter 246-296 WAC to redefine the term disadvantaged community, update loan terms, update application requirements, and clarify loan rating and ranking criteria to conform with requirements in BIL. This emergency rule is being adopted to extend the existing emergency rule without making changes to the previous emergency rules.

The amendments allow the department to modernize the definition of disadvantaged community, allow for partial or full loan forgiveness for projects serving disadvantaged and nondisadvantaged communities, remove water system plan requirements for those systems that are seeking a loan to address LSL identification and replacement, and update priority rating and ranking criteria to allow more water systems to qualify for loans.

Citation of Rules Affected by this Order: Amending WAC 246-296-020, 246-296-050, 246-296-100, 246-296-130.

Statutory Authority for Adoption: RCW 70A.125.160.

Other Authority: Federal Safe Drinking Water Act, 40 C.F.R. Part 35 Subpart L; and BIL P. L. 117-58.

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

Reasons for this Finding: The rule amendment is necessary for the preservation of the public health, safety, and general welfare of state citizens so that applicants can immediately receive a loan during the current cycle that starts October 1, 2023, which allows for up to full principal forgiveness to projects serving communities that qualify as disadvantaged and nondisadvantaged in conformance with the requirements under BIL. This rule amendment increases public health protection by broadening the types of qualifying infrastructure improvements as outlined in BIL, in addition to traditional funding uses such as replacing aging infrastructure, installing treatment to remove regulated contaminants, restructuring failing water systems, and responding to public health emergency events.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, 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 4, 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 4, Repealed 0.

Date Adopted: April 24, 2024.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4864.1

AMENDATORY SECTION (Amending WSR 22-07-025, filed 3/9/22, effective 4/9/22)

WAC 246-296-020 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) **"Affordability"** means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.

(2) **"Application"** means the DWSRF loan request form provided by the department.

(3) **"Application package"** means the DWSRF loan application form(s), requirements, terms of assistance, and related information created by the department.

(4) **"Borrower"** means the person that has legal and financial responsibility for the DWSRF loan.

(5) **"Capitalization grant"** means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(6) **"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(7) **"Default"** means failure to meet a financial obligation such as a DWSRF loan payment.

(8) **"Department"** means the Washington state department of health.

(9) **"Disadvantaged community"** means ~~((the service area of a proposed project within a public water system where the project will result in:~~

~~(a) Water rates that are more than one and one-half percent of the MHI of the service area; or~~

~~(b) Restructuring, when one or more public water systems are having financial difficulties)) a qualifying service area of a project serving residential connections within a public water system that is disproportionately impacted by economic, health, and environmental burdens. Potential qualifying areas will be assessed by indicators established in state guidance including population served, social vulnerability, environmental health disparities, and affordability of average annual water charges.~~

(10) "**DWSRF (drinking water state revolving fund)**" means the program that meets the requirements of RCW 70A.125.160 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(11) "**DWSRF loan**" means an agreement between the department and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(12) "**DWSRF loan fee**" means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(13) "**Ecology**" means the Washington state department of ecology.

(14) "**Eligible public water system**" means a Group A community public water system, either privately or publicly owned, or a non-profit Group A noncommunity public water system.

(15) "**Emergency**" means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

(16) "**EPA**" means the United States Environmental Protection Agency.

(17) "**Green project**" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

(18) "**Group A public water system**" is defined and referenced under WAC 246-290-020.

(19) "**Group B public water system**" means a public water system that is not a Group A public water system and is defined and referenced under WAC 246-291-005.

(20) "**Individual water supply system**" means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water

to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

(21) "**IUP (intended use plan)**" means the federally required document prepared each year by the department identifying the intended uses of the DWSRF funds and describing how those uses support the DWSRF goals.

(22) "**Loan closeout**" means a loan agreement is complete when the loan is repaid in full.

(23) "**MHI (median household income)**" means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

(24) "**Multiple benefit**" means projects that address more than one type of health risk.

(25) "**Municipality**" means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

(26) "**NEPA**" means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

(27) "**Nonprofit organization**" means an entity that has a federal tax exempt status identification number.

(28) "**Owner**" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

(29) "**Person**" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(30) "**Principal forgiveness**" means that a reduction of a percentage of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

(31) "**Project report**" means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

(32) "**Public water system**" is defined and referenced under WAC 246-290-020.

(33) "**Receivership**" means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

(34) "**Regional benefit**" means project improvements that affect more than one public water system.

(35) "**Restructuring**" means changing public water system ownership including, but not limited to:

(a) Consolidation of two or more existing public water systems into a single public water system;

(b) Transfer of ownership; or

(c) Receivership.

(36) "**SDWA (Safe Drinking Water Act)**" means Public Law 93-523, including all amendments.

(37) "**SEPA**" means the State Environmental Policy Act under chapter 43.21C RCW.

(38) "**Set-aside**" means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

(39) "**SERP (state environmental review process)**" means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

(40) "**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

(41) "**Sustainable**" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

(42) "**SWSMP (small water system management program)**" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

(43) "**System capacity**" means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

(44) "**Transfer of ownership**" means to change legal ownership of a public water system from one person to another.

(45) "**Water right**" means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

(46) "**WFI (water facilities inventory)**" means a department form summarizing a public water system's characteristics.

(47) "**WSP (water system plan)**" means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-050 DWSRF loan terms. (1) The department may approve a DWSRF loan for a project that will not serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate at or below market interest rates for a maximum of ((twenty)) 20 years from project completion.

(2) The department may approve a DWSRF loan for a project((s)) that will serve a disadvantaged ((communities)) community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate set at or below market interest rates for up to ((thirty)) 30 years, as long as the DWSRF loan does not exceed the useful life of the project((+)

~~(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or~~

~~(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan).~~

(3) A project is considered complete when the department approves the construction completion report.

- (4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.
- (5) The department shall:
 - (a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and
 - (b) Publish specific rates and contract terms in the annual application package.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-100 DWSRF loan eligibility and application requirements. To be eligible for a DWSRF loan, an applicant shall:

- (1) Document that the public water system has the system capacity to stay in compliance with applicable federal, state, and local drinking water requirements, unless:
 - (a) The funding will bring the public water system into compliance; and
 - (b) The owner of the public water system agrees to reasonable and appropriate changes to stay in compliance.
- (2) ~~((Before))~~ Except when applying for a DWSRF loan((7)) that addresses lead service line identification or lead service line replacements, the applicant shall have a current department-approved WSP or SWSMP that:
 - (a) Includes the proposed project; and
 - (b) Addresses any difficulties with system capacity;
- (3) Comply with federal, state, and local drinking water requirements or a variance under WAC 246-290-060, unless the DWSRF loan will fund projects that result in public water system compliance;
- (4) Comply with any department or EPA orders;
- (5) Install a source meter on each source if meters are not already installed;
- (6) Install service meters on all service connections if meters are not already installed within the project area, unless:
 - (a) The project is for a transient noncommunity public water system;
 - (b) The project is for a mobile home park with a source or master meter;
 - (c) The project is for an apartment building or complex with a source or master meter; or
 - (d) The department determines that installing meters is:
 - (i) Prohibitive for the DWSRF project as a whole; and
 - (ii) Waiving the meter requirement is necessary to award a DWSRF loan for a project to resolve high priority public health problems.
- (7) Have no outstanding fees or penalties owed to the department.
- (8) Provide documentation that the project has sufficient water rights as determined by ecology.
- (9) Comply with the requirements of WAC 246-296-120(1).

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-130 Project priority rating and ranking criteria.

The department shall, at a minimum, consider the following to assign points, and rate and rank proposed projects:

(1) Criteria for risk categories and points based on:

(a) Type and significance of public health problems the project will resolve;

(b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water requirements;

(c) Current compliance status; and

(d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system.

(2) Additional points based on the type of project being proposed, if the project:

(a) Is ready to proceed to construction;

(b) Completes projects previously funded by DWSRF grants or loans;

(c) Is to consolidate or restructure a public water system;

~~((b))~~ (d) Creates a sustainable regional public health benefit;

~~((c) Has multiple benefits that are sustainable;~~

~~(d) Is consistent with the Growth Management Act;~~

~~(e) Is financially sustainable;))~~

(e) Is a water main replacement project that coincides with other infrastructure projects;

(f) Qualifies as a green project; or

(g) ~~((Serves a disadvantaged community; or~~

~~(h) Results in service meters on existing services not currently metered))~~ Has an affordability index equal to or greater than one percent.

WSR 24-10-051
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-61—Filed April 25, 2024, 2:23 p.m., effective May 1, 2024, 8:00 a.m.]

Effective Date of Rule: May 1, 2024, 8:00 a.m.

Purpose: This emergency rule is necessary to adjust the Quinault secondary special management area boundary.

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

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

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

Reasons for this Finding: Tribal special management area descriptions conform with state/tribal agreements and state/tribal discussions regarding in-season modifications. 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: April 25, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000Y Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420 and WAC 220-340-480, effective 8:00 a.m. May 1, 2024, until further notice:

(1) It unlawful for a vessel to use more than 100 pots in the Quileute SMA area between Cape Johnson (47°58.00) and Destruction Island (47°40.50) shoreward of a line approximating the 30-fathom depth curve from 8:00 a.m. May 1 through 7:59 a.m. June 1, 2024. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the following methods:

- (a) E-mail to Jamie Fuller at Jamie.Fuller@dfw.wa.gov; or
- (b) Telephone call to Jamie Fuller at 360-580-0875.

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

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

NEW SECTION

WAC 220-340-45000S Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-340-450, effective 8:00 a.m. May 1, 2024, until further notice: it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided in this section:

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

For the purposes of this section, the waters of Willapa Bay include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(2) The Quinault secondary special management area (SSMA) is closed to fishing for Dungeness crab. The SSMA includes the area shoreward of a line approximating the 17-fathom depth curve between Split Rock (47°24.50) and Joe Creek (47°12.25) according to the following coordinates:

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

(b) Northwest Corner: 47°24.50'N. Lat. 124°28.50'W. Lon.

(c) Southwest Corner: 47°12.25'N. Lat. 124°19.00'W. Lon.

(d) Southeast Corner (Joe Creek): 47°12.25'N. Lat. 124°12.28'W. Lon.

(3) Quileute special management area (SMA) definition: The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

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

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

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

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

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

REPEALER

The following sections of Washington Administrative Code are repealed, effective 8:00 a.m. May 1, 2024:

WAC 220-340-42000X Commercial crab fishery—Unlawful acts. (24-55)

WAC 220-340-45000R Commercial crab fishery—Seasons and areas—Coastal. (24-55)

WSR 24-10-057

EMERGENCY RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Order 2024-03.04—Filed April 26, 2024, 10:56 a.m., effective April 27, 2024]

Effective Date of Rule: April 27, 2024.

Purpose: The health care authority (agency) is refiling WAC 182-12-5200 When is a retiring employee or a retiring school employee who separates from employment eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage, as authorized in HB 1008, chapter 164, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-12-5200.

Statutory Authority for Adoption: HB 1008, chapter 164, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

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

Reasons for this Finding: This emergency rule making is necessary to implement HB 1008, chapter 164, Laws of 2023, while the agency conducts the permanent rule-making process.

This filing continues the emergency rules filed under WSR 24-03-141, filed on January 23, 2024. Since the filing of this emergency rule, the agency is reviewing the PEBB chapters for updates and is preparing for its annual revisions under permanent rule making.

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 0, Amended 0, Repealed 0.

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

Date Adopted: April 26, 2024.

Wendy Barcus
Rules Coordinator

OTS-4906.2

NEW SECTION

WAC 182-12-5200 When is a retiring employee or a retiring school employee who separates from employment eligible to enroll in public

employees benefits board (PEBB) retiree insurance coverage? (1) A retiring employee or a retiring school employee who meet the definition of a separated employee as defined in RCW 41.05.011 (25)(a) or (b) is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if they meet procedural and substantive eligibility requirements as described in WAC 182-12-171 (1), (2), and (3), except as described in subsection (2) of this section.

(2) Effective January 1, 2024, the exceptions for a retiring employee and a retiring school employee to immediately begin receiving a monthly retirement plan payment to meet the substantive eligibility requirements as described in WAC 182-12-171 (2)(a), (c)(ii), and (d), and 182-12-5110 (4)(a)(ii), will include the following:

(a) A retiring employee or a retiring school employee who is a member of a Plan 3 retirement plan, also called a separated employee, must meet their Plan 3 retirement eligibility criteria; and

(b) A retiring employee or a retiring school employee who is a member of the teachers' retirement system Plan 2, school employees' retirement system Plan 2, or public employees' retirement system Plan 2, also called a separated employee, who separates from employment on or after January 1, 2024, and who is at least age 55 and have at least 20 years of service.

(3) The exceptions described in subsection (2) of this section apply to an employee or a school employee who is determined to be retroactively eligible for a disability retirement as described in WAC 182-12-211 (1)(c).

WSR 24-10-058

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed April 26, 2024, 11:55 a.m., effective April 27, 2024]

Effective Date of Rule: April 27, 2024.

Purpose: The health care authority (agency) is amending these rules to expand screening and preventative services for certain sexually transmitted infections, to include HIV testing, viral hepatitis B and C, and hepatitis A/B combination vaccines, when clinically appropriate or according to nationally recognized guidelines. The agency is also including coverage for family planning-related services and supplies, defined as those services provided as part of, or as follow-up to, a family planning visit.

Citation of Rules Affected by this Order: Amending WAC 182-532-530, 182-532-550, and 182-532-560.

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: These rules are necessary to expand family-planning only (FPO) coverage to support preventative screenings and family planning services while the permanent rule-making process is completed. The agency began the permanent rule-making process under WSR 23-24-065. The FPO program operates under a federal waiver allowing changes to be in response to state needs. These changes were approved by the Centers for Medicare and Medicaid Services (CMS) as eligible additions to the state program.

The agency has drafted the rule amendments, but a second emergency rule filing is needed. The agency is waiting for CMS to approve the renewal of the FPO waiver application, estimated by June 30, 2024, which includes the expanded coverage.

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 0, Repealed 0.

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

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

Date Adopted: April 26, 2024.

Wendy Barcus
Rules Coordinator

OTS-5096.1

AMENDATORY SECTION (Amending WSR 22-02-025, filed 12/28/21, effective 2/1/22)

WAC 182-532-530 Family planning only programs—Covered services.

The medicaid agency covers all of the following services:

(1) One comprehensive preventive family planning visit once every twelve months, based on nationally recognized clinical guidelines. This visit must have a primary focus and diagnosis of family planning and include counseling, education, risk reduction, and initiation or management of contraceptive methods;

(2) Assessment and management of family planning or contraceptive problems, when medically necessary;

(3) Family planning-related services and supplies defined as those services provided as part of, or as follow-up to a family planning visit;

(4) Contraception, including:

(a) Food and Drug Administration (FDA)-approved contraceptive methods, as described under WAC 182-530-2000;

(b) Education and supplies for Federal Drug Administration (FDA)-approved contraceptive, natural family planning, and abstinence; and

(c) Sterilization procedures, as described under WAC 182-531-1550.

~~((4))~~ (5) The following services, when clinically appropriate ~~(, during a visit focused on family planning)~~ or according to nationally recognized guidelines:

(a) Pregnancy testing;

(b) Cervical cancer screening ~~(, according to nationally recognized clinical guidelines)~~;

(c) Gonorrhea and chlamydia screening and treatment ~~((for clients age thirteen through twenty-five, according to nationally recognized clinical guidelines))~~;

(d) Syphilis screening and treatment ~~((for clients who have an increased risk for syphilis, according to nationally recognized guidelines; and))~~;

(e) Sexually transmitted infection (STI) screening, testing, and treatment, when medically indicated by symptoms or report of exposure, and medically necessary for the client's safe and effective use of their chosen contraceptive method;

(f) HIV testing, including rapid tests; and

(g) Viral hepatitis B and C testing.

(6) Hepatitis B and hepatitis A/B combination vaccines.

~~((5))~~ (7) Human papillomavirus (HPV) vaccines.

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

WAC 182-532-550 Family planning only programs—Payment limitations. (1) The medicaid agency limits payment under the family planning only programs to services that:

(a) Have a primary focus and diagnosis of family planning as determined by a qualified licensed medical practitioner; ~~(and)~~

(b) Are medically necessary for the client to safely and effectively use, or continue to use, the client's chosen contraceptive method; and

(c) Include family planning-related services and supplies listed in WAC 182-532-530.

(2) The agency pays:

(a) Providers for covered family planning services using the agency's published fee schedules;

(b) For family planning pharmacy services, family planning laboratory services, and sterilization services using the agency's published fee schedules; and

(c) A dispensing fee only for contraceptive drugs purchased through the 340B program of the Public Health Service Act. (See chapter 182-530 WAC)

(3) The agency does not pay for inpatient services under the family planning only programs, except for complications arising from covered family planning services.

(4) The agency requires providers to:

(a) Meet the timely billing requirements of WAC 182-502-0150; and

(b) Seek timely reimbursement from a third party when a client has available third-party resources, as described under WAC 182-501-0200. Exceptions to this requirement are described under WAC 182-501-0200 (2) and (3) and 182-532-570.

(5) Services provided to family planning clients by federally qualified health centers (FQHCs), rural health centers (RHCs), and Indian health care providers (IHCP) do not qualify for encounter or enhanced rates.

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

WAC 182-532-560 Family planning only programs—Documentation requirements. In addition to the requirements in WAC 182-502-0020, providers must document the following in the client's medical record:

(1) Primary focus and diagnosis of the visit is family planning or family planning related;

(2) Contraceptive methods discussed;

(3) Plan for use of a contraceptive method, or the reason and plan for no contraceptive method;

(4) Education, counseling, and risk reduction with sufficient detail that allows for follow-up;

(5) Referrals to, or from, other providers; and

(6) If applicable, a copy of the completed consent form for sterilization. (See WAC 182-531-1550)

WSR 24-10-060
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed April 26, 2024, 1:23 p.m., effective April 26, 2024, 1:23 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department of children, youth, and families (DCYF) early learning division is expanding eligibility to people working in licensed child care centers and licensed family homes, specialty and therapeutic court participants, and undocumented children. This rule making will also establish eligibility for families with a parent participating in a state-registered apprenticeship with income less than 85 percent of the state median income who, within the last year, were approved for working connections child care. This emergency has been in effect since December 29, 2023, and was originally filed under WSR 24-02-064.

Citation of Rules Affected by this Order: Amending WAC 110-15-0005, 110-15-0015, 110-15-0024, 110-15-0045, and 110-15-0075.

Statutory Authority for Adoption: 2SSB 5225, 2SHB 1525; chapter 43.216 RCW.

Other Authority: Not applicable.

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 new eligibility categories are necessary for the preservation of public health, safety, and general welfare through:

Increasing the number of vulnerable children eligible for child care where they will receive supervision, nurturing and care; allowing child care employees to use subsidy for their own children; and providing undocumented children subsidized child care with state dollars.

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 5, 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 5, Repealed 0.

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

Date Adopted: April 26, 2024.

Brenda Villarreal
Rules Coordinator

OTS-5105.2

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0005 Eligibility. (1) **Consumers.** At the time of application and reapplication, to be eligible for WCCC, consumers must:

- (a) Have parental control of one or more eligible children;
- (b) Live in the state of Washington;
- (c) Participate in an approved activity or meet the eligibility special circumstances requirements under WAC 110-15-0020, 110-15-0023, or 110-15-0024;
- ~~(d) ((Have countable income at or below 60 percent of the SMI at initial application or at or below 65 percent of the SMI at reapplication;~~
- ~~(e))~~ Not have assets that exceed \$1,000,000; ~~((and~~
- ~~(f))~~ (e) Have an agreed payment arrangement with any provider to whom any outstanding WCCC copayment is owed; and
- (f) One of the following:
 - (i) Have countable income at or below 60 percent of the state median income (SMI) at initial application or at or below 65 percent of the SMI at reapplication;
 - (ii) Within the first 12 months of a state-registered apprenticeship program, have a household annual income adjusted for family size that does not exceed 75 percent of the SMI; or
 - (iii) Be employed by a licensed or certified child care provider as confirmed or verified in the agency's electronic workforce registry and have a household annual income adjusted for family size that does not exceed 85 percent of the SMI.

(2) Parents currently attending high school or who are age 21 years or younger and completing a high school equivalency certificate are eligible for WCCC if their income does not exceed 85 percent of the SMI at the time of application.

(3) **Children.** To be eligible for WCCC, children must:

- ~~(a) ((Belong to one of the following groups as defined in WAC 388-424-0001:~~
 - ~~(i) A U.S. citizen;~~
 - ~~(ii) A U.S. national;~~
 - ~~(iii) A qualified alien; or~~
 - ~~(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.~~
- ~~(b) Legally))~~ Reside in Washington state ~~((, which will be determined by applying the criteria of WAC 388-424-0001 or 388-468-0005));~~ and
- ~~((e))~~ (b) At the time of eligibility determination or redetermination, be less than age 13 years ~~((of age on the first day of eligibility)); or~~
- ~~((d))~~ (c) Be less than age 19 years ~~((of age)), and:~~
 - (i) Have a verified special need, according to WAC 110-15-0020;

or

- (ii) Be under court supervision.

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

WAC 110-15-0015 Determining family size. (1) DCYF determines a consumer's family size as follows:

(a) For a single parent, including a minor parent living independently, DCYF counts the consumer and the consumer's children;

(b) For unmarried parents who have at least one mutual child, DCYF counts both parents and all of their children living in the household;

(c) ~~For unmarried parents who have no mutual children ((are counted as separate WCCC households)),~~ DCYF counts the unmarried parents and their respective children, although living in the same household, as separate WCCC households;

(d) For married parents, DCYF counts both parents and all of their children living in the household;

(e) ~~((For parents who are undocumented aliens as defined in WAC 388-424-0001, DCYF counts the parents and children, documented and undocumented, and all other family rules in this section apply. Children needing care must meet citizenship requirements described in WAC 110-15-0005;~~

~~(f))~~ For a legal guardian verified by a legal or court document, adult sibling or step-sibling, nephew, niece, aunt, uncle, grandparent, any of these relatives with the prefix "great," such as a "great-nephew," or an in loco parentis custodian who is not related to the child as described in WAC ~~((110-15-0005))~~ 110-15-0003, DCYF counts only the children and only the children's income is counted;

~~((g))~~ (f) For a parent who is out of the household because of employer requirements, such as training or military service, and expected to return to the household, DCYF counts the consumer, the absent parent, and the children;

~~((h))~~ (g) For a parent who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household, DCYF counts the consumer, the absent parent, and the children. WAC 110-15-0020 and all other family and household rules in this section apply;

~~((i))~~ (h) For a parent who is out of the country and waiting for legal reentry ~~((in to))~~ into the United States, DCYF counts only the consumer and children residing in the United States ~~((and)).~~ All other family and household rules in this section apply;

~~((j))~~ (i) An incarcerated parent is not part of the household count for determining income and eligibility. DCYF counts the remaining household members using all other family rules in this section; and

~~((k))~~ (j) For a parent incarcerated at a Washington state correctional facility whose child lives with them at the facility, DCYF counts the parent and child as their own household.

(2) When the household consists of the consumer's own child and another child identified in subsection (1) ~~((f))~~ (e) of this section, the household may be combined into one household or kept as distinct households for the benefit of the consumer.

AMENDATORY SECTION (Amending WSR 23-23-082, filed 11/13/23, effective 12/14/23)

WAC 110-15-0024 Categorical eligibility for families receiving child protective, child welfare, or family assessment response services, or referred during specialty or therapeutic court proceedings.
(1) Families with children ~~((who have received))~~ are eligible for WCCC

benefits for a 12-month period if the consumer is a Washington state resident and the child or children are living with a biological parent or guardian and:

(a) In the six months prior to application or reapplication for WCCC benefits, the family received:

(i) Child protective services as defined and used by chapters 26.44 and 74.13 RCW((~~r~~));

(ii) Child welfare services as defined and used by chapter 74.13 RCW((~~r~~)); or

(iii) Services through a family assessment response, as defined and used by chapter 26.44 RCW ((in the six months previous to application or reapplication for working connections child care (WCCC) benefits are eligible for WCCC benefits for a 12-month period if, in addition the:

~~(a) Consumer is a Washington state resident;~~

~~(b) Family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; and~~

~~(c) Child or children are residing with a biological parent or guardian);~~ and

(b) The family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; or

(c) The child's or children's parent or guardian:

(i) Is participating in a specialty or therapeutic court or is listed as a victim in a case in a specialty or therapeutic court; and

(ii) Was referred for child care as part of the specialty court or therapeutic court proceedings.

(2) Families eligible for WCCC under this section will:

(a) Have no copayment;

(b) Be authorized for full-time child care regardless of participation in an approved activity; and

(c) Be eligible to have benefits paid only to a provider that meets the requirements in WAC 110-15-0125.

(3) "Specialty court" and "therapeutic court," for the purpose of this section, are defined by RCW 2.30.020.

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0045 Approved activities for applicants and consumers not participating in WorkFirst. (1) Applicants and consumers not participating in WorkFirst activities may be eligible for WCCC benefits for the following approved activities:

(a) Employment;

(b) Self-employment;

(c) Supplemental nutrition assistance program employment and training (SNAP E&T); or

(d) The following education programs:

(i) High school or working towards a high school equivalency certificate for consumers under age 22 years (~~(of age)~~);

(ii) Part-time enrollment in a vocational education, adult basic education (ABE), high school equivalency certificate for consumers age 22 years (~~(of age)~~) and older, or English as a second language (ESL) program combined with an average of 20 or more employment hours per week or 16 more work-study hours per week; or

- (iii) For full-time students of a community, technical, or tribal college, enrollment in:
 - (A) A vocational education program that leads to a degree or certificate in a specific occupation;
 - (B) An associate degree program; or
 - (C) A registered apprenticeship program.
- (iv) "Full-time student" for the purpose of this subsection means a consumer attends a community, technical, or tribal college and meets its definition of full-time student.
- (e) Applicants and consumers who meet the requirements of ~~((e))~~ (d) of this subsection are eligible to receive subsidy payment for up to 10 hours per week of study time for approved classes.
- (2) Applicants and consumers who are eligible for WCCC benefits under the terms of this section are eligible to receive subsidy payment for:
 - (a) Transportation time between the child care location and the consumer's place of employment or approved activity; and
 - (b) Up to eight hours of sleep time before or after a night shift.

AMENDATORY SECTION (Amending WSR 23-12-038, filed 5/30/23, effective 7/1/23)

WAC 110-15-0075 Determining income eligibility and copayment amounts. (1) DCYF takes the following steps to determine consumers' eligibility and copayments, when care is provided under a WCCC voucher or contract:

- (a) Determine their family size as described in WAC 110-15-0015; and
- (b) Determine their countable income as described in WAC 110-15-0065.

(2) DCYF calculates consumers' copayments as follows:

If the household's income is:	Then the household's maximum monthly copayment is:
At or below 20 percent of the SMI	Waived
Above 20 percent and at or below 36 percent of the SMI	\$65
Above 36 percent and at or below 50 percent of the SMI	\$90
Above 50 percent and at or below 60 percent of the SMI	\$165
At reapplication, above 60 percent and at or below 65 percent of the SMI	\$215
<u>An applicant between 60 percent and 75 percent of the SMI for families participating in a state-registered apprenticeship</u>	<u>\$215</u>

(3) DCYF does not prorate copayments when consumers use care for only part of a month.

(4) ~~((For parents))~~ DCYF waives copayments for eligible consumers who are one or more of the following:

(a) Age 21 years or younger who attend high school or are working towards completing a high school equivalency certificate (~~(, copayments are not required)~~);

(b) Employed by a licensed or certified child care provider as confirmed or verified in the agency's electronic workforce registry;

(c) Eligible under WAC 110-15-0023; or

(d) Eligible under WAC 110-15-0024.

WSR 24-10-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-62—Filed April 26, 2024, 2:08 p.m., effective May 1, 2024]

Effective Date of Rule: May 1, 2024.

Purpose: This emergency rule:

WAC 220-340-52000S:

(1) Opens Puget Sound to commercial spot shrimp harvest effective May 1, 2024.

(2) Designates the commercial spot shrimp catch accounting periods and catch limits.

(3) Opens Puget Sound to commercial nonspot shrimp harvest effective May 1, 2024.

(4) Designates the commercial nonspot shrimp catch accounting periods and biweekly catch limit for harvest from Region 1 and 2E.

WAC 220-340-53000B:

(1) Opens Puget Sound to commercial shrimp trawl harvest.

(2) Designates opening for Puget Sound beam trawl areas.

(3) Designates early opening dates for select areas contingent on observer coverage.

Citation of Rules Affected by this Order: Amending WAC 220-340-520 and 220-340-530.

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: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require the adoption of harvest seasons contained in this emergency rule. This emergency rule is necessary to prosecute state commercial shrimp pot and trawl fisheries in Puget Sound. This rule allows harvesters to respond to dynamic changes in market conditions and promotes full utilization of both the commercial spot and nonspot shares. These rules are in congruence with comanager agreements. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: April 26, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000S Commercial shrimp pot fishery—Puget Sound.

Notwithstanding the provisions of WAC 220-340-520, effective May 1, 2024, until further notice, it is unlawful to fish for shrimp for commercial purposes using pot gear in Puget Sound except as provided for in this section:

(1) The Puget Sound Shrimp Pot License holder who owns the gear intended for barging must provide notice to the department via email at shrimp.report@dfw.wa.gov at least 24 hours in advance of the fishery opening date. Notice must include the following information:

- (a) Name and license number(s) of the owner of the gear being barged;
- (b) Name of the designated primary operator, if different from the licensed owner;
- (c) Name of the alternate operator, if used to deploy pots from a nondesignated vessel;
- (d) Number of pots to be deployed from a nondesignated vessel;
- (e) Name and identification numbers (WN and/or Coast Guard) of the nondesignated vessel;
- (f) Puget Sound Shrimp Management Region and MFSF Catch Area(s) gear will be deployed in.

(2) Spot Shrimp Pot Harvest:

(a) Spot shrimp harvest is permitted as indicated in the following table opening one hour before official sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	May 1, 2024, until further notice.
Subregion 1B	Closed.
Subregion 1C	May 1, 2024, until further notice.
Region 2E	Closed.
Region 2W	Closed
Subarea 23A-E	May 1, 2024, until further notice.
Subarea 23A-W	May 1, 2024, until further notice.
Subarea 23A-C and MSFS Catch Area 23B	May 1, 2024, until further notice.
Subarea 23A-S and MSFS Catch Area 23D	May 1, 2024, until further notice.
MFSF Catch Area 23C	May 1, 2024, until further notice.
MFSF Catch Area 25A, excluding the Discovery Bay Shrimp District	May 1, 2024, until further notice.
Discovery Bay Shrimp District	Closed.
MFSF 29 (Straits - Neah Bay)	May 1, 2024, until further notice.
Subarea 26B-1 and MFSF Catch Area 26C	Closed.
Subarea 26B-2	Closed.
Region 5	Closed.
MFSF Catch Area 26D	Closed.
MFSF Catch Areas 28A, 28B, 28C, and 28D	Closed.

(b) The first spot shrimp catch accounting period starts one hour before official sunrise on May 1, 2024, through one hour after official sunset on July 30, 2024.

(c) It is unlawful for the combined total harvest during the first spot shrimp accounting period to have exceeded 4,800 pounds of spot shrimp per license from all Puget Sound shrimp management regions combined.

(d) The second spot shrimp catch accounting period will start one hour before official sunrise on July 31, 2024, through one hour after official sunset on August 20, 2024.

(e) It is lawful to possess deactivated non-spot shrimp pots on-board a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for spot shrimp.

A deactivated pot is un-baited, has the drawstring or door fastened open, and/or is unable to be readily fished.

(3) Non-spot shrimp pot harvests:

(a) Non-spot shrimp pot harvest is permitted as indicated in the following table opening one hour before official sunrise on the first day of the open period. Any closures take effect one hour after official sunset on the closing day of the open period.

Geographical Management Unit (WAC 220-320-140; WAC 220-320-120)	Open Period
Subregion 1A	May 1, 2024, until further notice.
Subregion 1B	May 1, 2024, until further notice.
Subregion 1C	May 1, 2024, until further notice.
Region 2E	May 1, 2024, until further notice.
Region 2W	May 1, 2024, until further notice.
Region 3, not including Discovery Bay Shrimp District	May 1, 2024, until further notice.
Discovery Bay Shrimp District	May 1, 2024, until further notice.
Region 4	Closed
Region 5	Closed
Region 6	Closed

(b) The non-spot shrimp catch accounting periods begin one hour before official sunrise and end one hour after official sunset on the date listed in the following table:

Period Number	Start Date	End Date
1	5/1/2024	5/14/2024
2	5/15/2024	5/28/2024
3	5/29/2024	6/11/2024
4	6/12/2024	6/25/2024
5	6/26/2024	7/9/2024
6	7/10/2024	7/23/2024
7	7/24/2024	8/6/2024
8	8/7/2024	8/20/2024
9	8/21/2024	9/3/2024
10	9/4/2024	9/17/2024
11	9/18/2024	10/1/2024
12	10/2/2024	10/15/2024

(c) It is unlawful for total harvest of non-spot shrimp to exceed 1,400 pounds per non-spot shrimp catch accounting period from subre-

gions 1A, 1B, 1C, and Region 2E combined during catch accounting periods 1 through 12.

(d) There is no weekly harvest limit of non-spot shrimp from Region 2W, Region 3, or the Discovery Bay Shrimp District.

(e) Harvest of non-spot shrimp is not permitted deeper than 175 feet in Catch Area 23A and all of its subareas (23AE, 23AW, 23AC, 23AS).

(f) Harvest of non-spot shrimp is not permitted deeper than 175 feet in subregion 1A.

(g) It is unlawful to harvest non-spot shrimp in more than one geographical management unit listed in subsection (3)(a) in a single day with the following exceptions:

(1) Non-spot shrimp may be harvested from more than one subregion of Region 1 on the same day.

(2) Non-spot shrimp may be harvested from Discovery Bay Shrimp District and Region 3 on the same day.

(h) It is lawful to possess deactivated spot shrimp pots on-board of a commercial vessel that is listed on a Puget Sound shrimp pot license while fishing for non-spot shrimp.

A deactivated pot is un-baited, has the drawstring or door fastened open, and/or is unable to be readily fished.

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

NEW SECTION

WAC 220-340-53000B Commercial shrimp trawl fishery—Puget Sound.

Notwithstanding the provisions of WAC 220-340-530, effective May 1, 2024, until further notice, it is unlawful to fish for shrimp for commercial purposes using beam trawl gear in Puget Sound except as provided for in Tables a, b, and c of this section:

(a) Non-spot shrimp beam trawl harvest is permitted starting one hour before official sunrise on the hard season opening dates listed for each of the areas detailed below.

Geographic Area Description ((WAC 220-320-140(3); WAC 220-320-120)	Open period
Catch Area 20A outside of those waters north and east of a line from Point Roberts Light (48.9716°, -123.0838°) to Sandy Point Light at the Lummi Reservation (48.7868°, -122.7124°)	August 1, 2024, until further notice.
Those waters within the Lummi-Sinclair Triangle.	July 1, 2024, until further notice.
Those waters of South Lopez Sound.	July 10, 2024, until further notice.
All waters within subregion 1B, excluding those waters of South Lopez Sound, the Lummi-Sinclair Triangle, and Catch Area 20B.	June 16, 2024, until further notice.
Subarea 23A East, MFSF Catch Areas 23B, and MFSF Catch Area 25A outside of the Discovery Bay Shrimp District.	May 1, 2024, until further notice.
Subarea 23A West	May 1, 2024, until further notice.
MFSF Catch Area 23C	May 1, 2024, until further notice.
MFSF Catch Area 29	May 1, 2024, until further notice.

(b) Non-spot shrimp beam trawl harvest is permitted starting one hour before official sunrise in the areas detailed below contingent on the harvester bringing a WDFW on-board observer on the first trip of the area. If by-catch sampling criteria are not met these areas will open on the later dates described in WAC 220-340-530 (5)(d) and (5)(e).

Geographic Area Description ((WAC 220-320-140(3); WAC 220-320-120)	Open period
Those waters within the Rosario Box.	May 1, 2024, until further notice.
Those waters of Catch Area 22A within subregion 1B, excluding the Rosario Box and South Lopez Sound.	May 1, 2024, until further notice.
Those waters of Catch Area 20B within subregion 1B.	May 1, 2024, until further notice.

(c) Non-spot shrimp beam trawl harvest is not permitted in the areas of Shrimp Management Regions 1 and 3 detailed below.

Geographic Area Description (WAC 220-320-140(3); WAC 220-320-120)
Discovery Bay Shrimp District
Sequim Bay CSMA
MFSF Catch Area 23D
Subregion 1A

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

WSR 24-10-062

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed April 26, 2024, 3:01 p.m., effective April 26, 2024, 3:01 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Home care aide and nursing assistant-certified (NA-C) alternate certification time frames. The department of health (department) is establishing alternate certification time frames for individuals working toward certification as a home care aide or NA-C. This includes amending WAC 246-980-025, 246-980-030, 246-980-040 and 246-980-065, and adopting new WAC 246-980-011. Due to lasting impacts caused by the coronavirus disease 2019 (COVID-19) pandemic, many long-term care workers are still unable to obtain training and certification as home care aides or NA-Cs within statutory time frames. By continuing alternate time frames established under ESHB 1120 (chapter 203, Laws of 2021), the department will allow workers impacted by the pandemic more time to complete requirements while training, testing, and credentialing capacity issues are being resolved.

These emergency rules continue, without change, emergency rules originally filed January 12, 2023, under WSR 23-03-066 and extended thereafter as necessary, and most recently on December 28, 2023, under WSR 24-02-051. These rules established alternate certification time frames for two different groups of long-term care workers: Individuals working toward certification as a home care aide and individuals working toward certification as an NA-C. The rule language for this extension is the same as the most recent filing. Rules impacting home care aides were developed in collaboration with the department of social and health services (DSHS), while rules impacting NA-Cs were developed in collaboration with DSHS and the Washington state board of nursing (WABON).

New WAC 246-980-011 establishes alternate time frames for long-term care workers seeking certification as a home care aide or NA-C.

Amendments to WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065 create cross-references to WAC 246-980-011 and, where applicable, to DSHS rules that establish alternate time frames for training and testing.

Citation of Rules Affected by this Order: New WAC 246-980-011; and amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065.

Statutory Authority for Adoption: RCW 18.88B.021; ESHB 1120 (chapter 203, Laws of 2021).

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

Reasons for this Finding: This emergency rule is necessary to avoid a critical shortage of long-term care workers as a result of the COVID-19 pandemic.

During the COVID-19 pandemic, both training and testing were unavailable for several months in 2020 before resuming at limited capacity. This created a large backlog of long-term care workers unable to become certified as a home care aide or NA-C within statutory time frames. During the COVID-19 declared emergency, thousands of workers seeking certification were allowed to continue working under Gover-

nor's Proclamations 20-52 and 20-65 (waivers), which waived credentialing requirements. Now that the waivers have been rescinded, however, uncertified workers will no longer be able to work and will still be unable to readily access the training and testing necessary for certification. Losing these workers would exacerbate the existing workforce shortage, forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings, and further impact an already strained hospital and emergent health care settings to receive urgent healthcare services.

ESHB 1120, passed in 2021, gives the department authority to allow long-term care workers additional time to become certified if a pandemic or other declared state of emergency impacts their ability to complete certification timely. Pursuant to ESHB 1120, the department collaborated with DSHS and WABON to develop alternate, extended time frames for long-term care workers seeking certification as a home care aide or NA-C. These alternate time frames create a path to certification for uncertified home care aides and NA-Cs and allow workers to continue caring for clients while the testing and training backlog is being resolved.

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 4, 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 4, Repealed 0.

Date Adopted: April 26, 2024.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-3558.9

NEW SECTION

WAC 246-980-011 Long-term care workers working or hired during the COVID-19 public health emergency. (1) Unless exempt from certification as described in WAC 246-980-025, a long-term care worker affected by the coronavirus disease 2019 (COVID-19) public health emergency who is required to be certified as a home care aide must obtain certification as follows:

Hired or rehired during the time frame of:	Shall be certified no later than:
August 17, 2019, to September 30, 2020	January 31, 2024

Hired or rehired during the time frame of:	Shall be certified no later than:
October 1, 2020, to April 30, 2021	April 30, 2024
May 1, 2021, to March 31, 2022	July 31, 2024
April 1, 2022, to September 30, 2022	October 31, 2024
October 1, 2022, to June 30, 2023	January 31, 2025
July 1, 2023, to January 31, 2024	April 30, 2025
Beginning February 1, 2024	Standard training

The above chart provides additional time for a long-term care worker to be certified, as either a home care aide or nursing assistant.

(2) "Hired" and "rehired" as used in this section mean the date of hire as defined in WAC 246-980-010. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in subsection (1) of this section.

(3) If a long-term care worker or home care aide is limited-English proficient, the worker may request an additional 60 days to obtain certification under WAC 246-980-065.

(4) Nothing in this section prevents a long-term care worker hired between August 17, 2019, and September 30, 2022, from completing training or obtaining certification in advance of the deadlines stipulated in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

WAC 246-980-025 Individuals exempt from obtaining a home care aide certification. (1) The following individuals are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the entry level training required by RCW 74.39A.074 and meet the requirements of WAC 246-980-040 (1)(b) and (c).

(a) An individual provider caring only for a biological, step, or adoptive child or parent.

(b) An individual provider who provides (~~twenty~~) 20 hours or less of care for one person in any calendar month.

(c) An individual employed by a community residential service business.

(d) An individual employed by a residential habilitation center licensed under chapter 71A.20 RCW or a facility certified under 42 C.F.R. Part 483.

(e) A direct care worker who is not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(f) A person working as an individual provider who only provides respite services and works less than (~~three hundred~~) 300 hours in any calendar year.

(g) Any direct care worker exempt under RCW 18.88B.041(1).

(2) The following long-term care workers are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must meet the requirements of WAC 246-980-040 (1)(b) and (c). The training requirements under RCW 74.39A.074(1) are not required.

(a) An individual who holds an active credential by the department as a:

(i) Registered nurse, a licensed practical nurse, or advanced registered nurse practitioner under chapter 18.79 RCW; or

(ii) Nursing assistant-certified under chapter 18.88A RCW.

(b) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R. Part 484.36.

(c) A person who is in an approved training program for certified nursing assistant under chapter 18.88A RCW, provided that the training program is completed within (~~one hundred twenty~~) 120 calendar days of the date of hire and that the nursing assistant-certified credential has been issued within (~~two hundred~~) 200 calendar days of the date of hire, or that the training and certification are completed in compliance with the deadlines in WAC 246-980-011.

(d) An individual with special education training and an endorsement granted by the superintendent of public instruction under RCW 28A.300.010 and is approved by the secretary.

(e) An individual employed as a long-term care worker on January 6, 2012, or who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, and who completed all of the training requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for three consecutive years.

(i) The department may require the exempt long-term care worker who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, to provide proof of that employment. Proof may include a letter or similar documentation from the employer that hired the long-term care worker between January 1, 2011, and January 6, 2012, indicating the first and last day of employment, the job title, a job description, and proof of completing training requirements. Proof of training will also be accepted directly from the approved instructor or training program, if applicable.

(ii) For an individual provider reimbursed by the department of social and health services, the department will accept verification from the department of social and health services or the training partnership.

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

WAC 246-980-030 Working while obtaining certification as a home care aide. (1) A long-term care worker may provide care before receiving certification as a home care aide if all the following conditions are met:

(a) Before providing care, the long-term care worker must complete the training required by RCW 74.39A.074 (1)(d)(i)(A) and (B).

(b) The long-term care worker must submit an application for home care aide certification to the department within (~~fourteen~~) 14 cal-

endar days of hire. An application is considered to be submitted on the date it is post-marked or, for applications submitted in person or online, the date it is accepted by the department.

(2) Except as provided in WAC 246-980-011, a long-term care worker is no longer eligible to provide care without a credential under the following circumstances:

(a) The long-term care worker does not successfully complete all of the training required by RCW 74.39A.074(1) within ~~((one hundred twenty calendar days from their date of hire))~~ the timelines in WAC 388-71-0876 or 388-112A-0081;

(b) The long-term care worker has not obtained their certification within ~~((two hundred))~~ 200 calendar days from their date of hire, or ~~((two hundred sixty))~~ 260 calendar days if granted a provisional certificate under RCW 18.88B.041.

(3) This section does not apply to long-term care workers exempt from certification under WAC 246-980-025.

AMENDATORY SECTION (Amending WSR 21-02-002, filed 12/23/20, effective 1/23/21)

WAC 246-980-040 Certification requirements. (1) To qualify for certification as a home care aide, except as provided in WAC 246-980-011, the applicant must:

(a) Successfully complete all training required by RCW 74.39A.074(1) within ~~((one hundred twenty calendar days of the date of hire as a long-term care worker))~~ the timelines in WAC 388-71-0876 or 388-112A-0081;

(b) Successfully pass the home care aide certification examination, after completing training; and

(c) Become certified within ~~((two hundred))~~ 200 days of date of hire, or ~~((two hundred sixty))~~ 260 days if granted a provisional certificate under RCW 18.88B.041.

(2) An applicant for certification as a home care aide must submit to the department:

(a) A completed application for both certification and the examination on forms provided by the department;

(b) The exam fee set by the examination vendor and required fees under WAC 246-980-990; and

(c) A certificate of completion from an approved training program indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.074. The certificate of completion or other official verification may also be submitted directly from the approved instructor or training program.

(3) An applicant must submit to a state and federal background check as required by RCW 74.39A.056.

(4) An applicant exempt from certification under WAC 246-980-025(2) who voluntarily chooses to be certified must provide documentation of qualification for the exemption. The applicant is not required to take the training required in subsection (1)(a) of this section or provide proof of training completion to the department.

AMENDATORY SECTION (Amending WSR 16-09-004, filed 4/7/16, effective 5/8/16)

WAC 246-980-065 Home care aide provisional certification. (1)

The department may issue a provisional certification to a long-term care worker who is limited-English proficient and submits:

- (a) A request for a provisional certification; and
 - (b) Verification of his or her date of hire as a long-term care worker, as follows:
 - (i) For individual providers, verification of the applicant's date of hire submitted directly by the department of social and health services; or
 - (ii) For all other applicants, a form supplied by the department and completed by the employer who hired the applicant as a long-term care worker, verifying the applicant's date of hire.
- (2) A provisional certification will be issued only once.
- (3) Except as provided in WAC 246-980-011, a provisional certification will take effect ((two hundred)) 200 days from the applicant's date of hire as a long-term care worker, as defined in WAC 246-980-010(2).
- (4) Except as provided in WAC 246-980-011, a provisional certification will expire ((two hundred sixty)) 260 days from the applicant's date of hire as a long-term care worker. The applicant must stop working on the ((two hundred sixtieth)) 260th day of employment if the certification has not been granted for any reason.
- (5) A request for provisional certification may be denied pursuant to chapter 18.130 RCW, the Uniform Disciplinary Act, or based on RCW 18.88B.080.
- (6) For the purposes of this section, "limited-English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

WSR 24-10-067
EMERGENCY RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed April 29, 2024, 9:09 a.m., effective April 29, 2024, 9:09 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Expand the scope of the transitional certificate to better support educators with increased certificate renewal requirements.

Citation of Rules Affected by this Order: Amending WAC 181-79A-231.

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

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

Reasons for this Finding: Many educator certificates will expire June 30th and immediate amendment of this rule will be necessary to provide support for educators while adopting a 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 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: April 25, 2024.

Michael Nguyen
Rules coordinator

OTS-5395.1

AMENDATORY SECTION (Amending WSR 22-20-090, filed 10/4/22, effective 11/4/22)

WAC 181-79A-231 Limited certificates. All applicants for limited certificates must meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2).

Nothing within chapter 181-79A WAC authorizes practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

(1) Conditional certificate.

(a) **Intent.** The intent of the conditional certificate is to assist school districts, approved private schools, and educational serv-

ice districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals.

(b) **Roles.**

(i) Teacher roles. The conditional certificate may be issued to teachers in all endorsement areas. Specific minimum requirements defined in this section apply to the following:

- (A) Special education teachers;
- (B) Nonimmigrant exchange teachers;
- (C) Traffic safety education teachers.

(ii) Educational staff associate roles. The conditional certificate may be issued in the following education staff associate roles:

- (A) School counselor;
- (B) School nurse;
- (C) School psychologist;
- (D) School social worker;
- (E) School speech language pathologist or audiologist;
- (F) School behavior analyst;
- (G) School orientation and mobility specialist.

(iii) Administrator role. The conditional certificate may be issued in the following administrator role: Principal.

(c) **Request requirements.**

(i) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that one or more of the following criteria have been met:

- (A) The individual has extensive experience, unusual distinction, or exceptional talent in the subject matter to be taught or in the certificate role; or
- (B) No person with regular certification in the area is available; or
- (C) The individual holds a bachelor's degree or higher from an accredited college or university; or
- (D) The individual is enrolled in an educator preparation program specific to the certificate role for which they are applying; or
- (E) The individual will serve as a nonimmigrant exchange teacher and meets the specific minimum requirements defined in this section; or
- (F) The individual will serve as a traffic safety education teacher and meets the specific minimum requirements defined in this section; or
- (G) Circumstances warrant.

(ii) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that all of the following criteria have been met:

- (A) The district, educational service district, or approved private school has determined that the individual is competent for the assignment; and
- (B) After specific inclusion on the agenda and a formal vote, the school board or educational service district board has authorized the conditional certificate; and
- (C) The individual is being certificated for a specific assignment and responsibility in a specified activity/field; and
- (D) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities; and
- (E) The individual will not be serving in a paraeducator role; and

(F) The individual will be oriented and prepared for the assignment. In addition, prior to service, the individual will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment; and

(G) The individual will be assigned a mentor within 20 working days from the commencement of the assignment; and

(H) A written plan of support will be developed within 20 working days from the commencement of the assignment.

(d) **Minimum requirements.**

(i) Individuals must complete 50 continuing education credit hours after the issuance of the certificate, and prior to the reissuance of the certificate. Holders of conditional certificates in the role of nonimmigrant exchange teacher are not required to complete 50 continuing education credit hours.

(ii) Special education teacher. The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from an accredited college or university.

The issuance of a conditional certificate to a special education teacher is contingent upon the individual being enrolled in a state-approved teacher preparation program resulting in a teacher certificate endorsed in special education.

An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(iii) Traffic safety education teacher. The applicant qualifies to instruct in the traffic safety program under WAC 392-153-021. Written plans of support and mentors are not required for holders of conditional certificates in the role of traffic safety education teacher.

(iv) Nonimmigrant exchange. A conditional certificate in the role of teacher may be issued to an individual admitted to the United States for the purpose of serving as an exchange teacher.

The individual must be eligible to serve as a teacher in the elementary or secondary schools in their country of nationality or last residence.

(v) School counselor. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for the role, in accordance with Washington requirements for certification.

(vi) School nurse. The applicant possesses a ~~((state of Washington))~~ valid license ~~((for))~~ as a registered nurse (RN) under chapter 18.79 or 18.80 RCW. Applicants who meet the requirements for the initial school nurse certificate will not be issued a conditional school nurse certificate.

(vii) School psychologist. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for school psychologists, in accordance with Washington requirements for certification.

In addition, the candidate shall have completed all course work for the required master's degree, and shall be participating in the required internship.

(viii) School social worker. The applicant must hold a bachelor's degree or higher from an accredited college or university. The applicant must be enrolled in a master's degree program in social work or social welfare.

(ix) School speech language pathologist or audiologist. The applicant has completed a bachelor's degree or higher from an accredited college or university.

(x) School behavior analyst. Applicants must meet one or more of the following:

(A) Hold a valid Washington state department of health license as an assistant behavior analyst. The district, educational service district, or approved private school must provide a supervisor who meets the department of health requirements for a supervisor of assistant behavior analysts; or

(B) Hold a valid board certified assistant behavior analyst (BCABA) certificate from the behavior analyst certification board (BACB). The district, educational service district, or approved private school must provide a supervisor who meets the behavior analyst certification board (BACB) requirements for a supervisor of board certified assistant behavior analyst (BCABA); or

(C) Hold a bachelor's degree, and, must be enrolled in or have completed the course work requirements for the board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), as verified by the institution providing the behavior analysis course work.

(xi) School orientation and mobility specialist.

(A) Applicants must have completed all requirements for an approved national certificate with the exception of the internship and the assessment, as verified by the institution providing the course-work for the national certificate. The approved national certificates are the certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), and the national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB).

(B) The school employer must ensure the candidate has access to a mentor who meets the requirements for an intern supervisor set by the academy for certification of vision rehabilitation and education professionals (ACVREP) or the national blindness professional certification board (NBPCB).

(xii) Principal. The applicant holds a bachelor's degree from an accredited college or university.

The candidate for conditional certification as a principal shall be enrolled in a program resulting in the issuance of a residency principal certificate, in accordance with Washington requirements for certification.

(e) **Validity.** The conditional certificate is valid for two years or less, and is only valid for the activity or role specified on the certificate.

The reissuance of the special education conditional certificate will have a validity period of three years or less.

(f) **Reissuance.**

(i) The conditional certificate may be reissued upon request by the employing local school district, approved private school, or educational service district, provided all conditions for the first issuance of the certificate are met.

(ii) The requesting school district, approved private school, or educational service district will verify that the 50 continuing education credit hours earned as a requirement for reissuance of the certificate are designed to support the individual's professional growth,

and enhance the individual's knowledge or skills to better assist students in meeting state learning goals.

(iii) Nonimmigrant exchange. The conditional certificate in the role of teacher may be reissued while the individual is being sponsored by a school district in an exchange and visiting teacher program.

(iv) Special education teacher. Conditional certificates in special education may only be reissued once. The reissuance of the special education conditional certificate will have a validity period of three years or less. The special education conditional certificate may only be reissued upon verification by the preparation program provider that the individual is completing satisfactory progress in a state-approved teacher certificate program leading to a special education endorsement.

(v) School speech language pathologist or audiologist. Conditional certificates as a school speech language pathologist or audiologist may be reissued twice.

The conditional certification as a school speech language pathologist or audiologist may be reissued if the candidate is enrolled in a master's degree program resulting in issuance of an initial ESA certificate in accordance with Washington requirements for certification.

The school speech language pathologist or audiologist conditional certificate may be reissued a second time upon verification by the degree provider that the individual is completing satisfactory progress in a master's degree program resulting in issuance of an initial school speech language pathologist or audiologist certificate in accordance with Washington requirements for certification.

(vi) Conditional certificates as a school behavior analyst may be reissued twice.

(vii) Conditional certificates as a school orientation and mobility specialist may be reissued once.

(2) **Transitional certificate.**

(a) **Intent.** The transitional certificate provides flexibility for school districts in employing an individual (~~according to this chapter.~~

~~(i) Individuals)) whose ((continuing)) certificate has lapsed or expired under WAC 181-79A-240.~~

~~((ii) Individuals whose certificate has lapsed or expired by June 30, 2022, under WAC 181-79A-240.))~~

(b) **Roles.** The transitional certificate may be issued in roles of teacher, education staff associate, and administrator for ~~((continuing certificates or other))~~ certificates subject to renewal under WAC 181-79A-240.

(c) **Request requirements.**

(i) The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose ~~((continuing))~~ certificate has lapsed or expired according to this chapter.

~~(ii) ((The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose certificate has expired according to this chapter.~~

~~(A) Districts may request a transitional certificate for all certificates other than continuing certificates under this section through December 31, 2023.~~

~~(B) Educators under this section must apply for the transitional certificate through the office of the superintendent of public instruction no later than June 30, 2024.~~

~~(iii))~~) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of support for the holder to complete the necessary certificate renewal requirements under this chapter.

(d) **Minimum requirements.**

(i) The holder of the transitional certificate must complete the requirements for certificate renewal within two years of the date the holder was issued the transitional certificate.

(ii) No individual whose certificate has been suspended, revoked, or surrendered shall be eligible to be employed under this section.

(e) **Validity.** The transitional certificate is valid until two years from the date the holder was issued the certificate. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(f) **Reissuance.** The transitional certificate is not renewable and may not be reissued.

(3) **Emergency substitute certificate.**

(a) **Intent.** The intent of the emergency substitute certificate is to assist school districts, approved private schools, and educational service districts with flexibility in meeting educator workforce needs.

(b) **Roles.**

(i) The emergency substitute certificate may be issued in the role of teacher.

(ii) To ensure that related services personnel deliver special education services in their respective discipline or profession, the emergency substitute certificate may not be issued for individuals to serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b) (2) (ii).

(iii) Holders of the emergency substitute certificate may serve in the local school district, approved private school, or educational service district which requested the certificate.

(iv) Holders of the emergency substitute certificate may serve as substitutes if the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes under WAC 181-79A-232.

(c) **Request requirements.**

(i) The emergency substitute certificate is issued upon request by a school district, approved private school, or educational service district.

(ii) If the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, emergency substitute certificates may be issued to persons not fully qualified as substitutes under WAC 181-79A-232.

(d) **Validity.** Emergency substitute certificates shall be valid for two years or less.

(e) **Reissuance.** The emergency substitute certificate may be reissued upon request by the employing local school district, approved private school, or educational service district.

(4) **Intern substitute certificate.**

(a) **Intent.** The intent of the intern substitute certificate is to provide the intern the opportunity to serve as a substitute when the cooperating teacher is absent. This provides the intern with experience while allowing for consistency in instruction for the students.

(b) **Roles.** The intern substitute certificate may be issued to student teachers or intern teachers.

(c) **Request requirements.**

(i) School districts, educational service districts, and approved private schools may request intern substitute teacher certificates for individuals enrolled in student teaching and internships to serve as substitute teachers in the absence of the cooperating teacher.

(ii) The supervising preparation program provider must approve the candidate for the intern substitute teacher certificate.

(d) **Minimum requirements.** The holder of the intern substitute certificate may be called at the discretion of the school district, education service district, or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher or intern.

(e) **Validity.** The intern substitute teacher certificate is valid for one year or less.

(f) **Reissuance.** The intern substitute certificate may be reissued upon request by the local school district, approved private school, or educational service district, and approved by the educator preparation program provider.

WSR 24-10-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-63—Filed April 29, 2024, 9:59 a.m., effective May 7, 2024]

Effective Date of Rule: May 7, 2024.

Purpose: The purpose of this emergency rule is to open recreational spring Chinook seasons in portions of the Snake River.

Citation of Rules Affected by this Order: Amending WAC 220-312-050.

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

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

Reasons for this Finding: The 2024 Columbia River forecasted return of upriver spring Chinook salmon is sufficiently abundant to allow for harvest opportunity on the Snake River based on the Washington department of fish and wildlife (WDFW) Commission Policy C-3630. The *United States v. Oregon* (2018-2027) Management Agreement provides Endangered Species Act (ESA) coverage for this fishery.

WDFW will monitor spring Chinook returns throughout the season and may close the fishery at any time due to harvest levels, ESA impacts, in-season run adjustments, or a combination thereof.

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 0.

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

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

Date Adopted: April 29, 2024.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-05000N Freshwater exceptions to statewide rules—Eastside. Effective May 7, 2024, until further notice, the following provisions of WAC 220-312-050, regarding salmon seasons in the Snake River shall be open as follows. All other provisions of WAC 220-312-050 remain in effect unless modified by emergency rule:

(1) Snake River (Franklin/Walla Wall Counties): From Texas Rapids boat launch (located on the south side of the river upstream of the mouth of Tucannon River) to the fishing restriction boundary below Little Goose Dam and including the rock and concrete area between the juvenile bypass return pipe and little Goose Dam along the shoreline of the facility (including the walkway area locally known as "the Wall" in front of the juvenile collection facility): Salmon:

(a) Effective May 7, 2024, until further notice: Open Tuesdays and Fridays only; closed Mondays, Wednesdays, Thursdays, Saturdays, and Sundays.

(b) Daily limit 4, of which up to 1 adult may be retained. Release all salmon other than hatchery Chinook.

(c) Night Closure.

(d) Barbless hooks required.

(e) Salmon may not be removed from the water unless retained as part of the daily limit.

(2) Snake River (Franklin/Walla Wall Counties): From the South Bound Highway 12 Bridge near Pasco upstream about 7 miles to the fishing restriction boundary below Ice Harbor Dam: Salmon:

(a) Effective May 8, 2024, until further notice: Open Wednesdays and Thursdays only; closed Mondays, Tuesdays, Fridays, Saturdays, and Sundays.

(b) Daily limit 4, of which up to 1 adult may be retained. Release all salmon other than hatchery Chinook.

(c) Night Closure.

(d) Barbless hooks required.

(e) Salmon may not be removed from the water unless retained as part of the daily limit.

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

WSR 24-10-069
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-64—Filed April 29, 2024, 10:02 a.m., effective April 30, 2024]

Effective Date of Rule: April 30, 2024.

Purpose: This emergency rule is necessary to close spring Chinook and steelhead fisheries previously scheduled in WSR 24-09-022.

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

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: Preliminary catch estimates for the mainstem spring Chinook fishery from Bonneville Dam to the Oregon/Washington state line indicate the preupdate allowable catch for upriver spring Chinook has been met. Upriver spring Chinook are the surrogate for the Endangered Species Act (ESA)-listed spring Chinook above Bonneville Dam. Joint state action was necessary to limit additional upriver spring Chinook catches prior to the run size update. Conforms Washington state rules with Oregon state rules. Regulation is consistent with joint state action taken on April 29, 2024.

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

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

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

Number of Sections Adopted in Order to Comply with Federal Statute: New 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 0, Repealed 1.

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

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

Date Adopted: April 29, 2024.

Kelly Susewind
Director

REPEALER

The following section of Washington Administrative Code is repealed, effective April 30, 2024:

WAC 220-312-06000H Freshwater exceptions to statewide rules—Columbia. (24-53)

WSR 24-10-096
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Board of Nursing)

[Filed April 30, 2024, 2:47 p.m., effective April 30, 2024, 2:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Out-of-state nursing school requirements for licensure. The Washington state board of nursing (board) is amending WAC 246-840-030 and 246-840-090 to clarify existing licensure requirements for registered nurse (RN) and licensed practical nurse (LPN) applicants applying for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board and applicants applying via interstate endorsement.

The board is engaged in permanent rule making to adopt these emergency amendments as permanent rules. Transition from emergency to permanent rules was approved by the board and a notice of intent to begin rule making was filed on May 24, 2023, under WSR 23-11-143. A public hearing was recently held on March 8, 2024, and the adoption of permanent rules is moving forward.

This is the fourth emergency rule, initially filed as WSR 23-11-015 on May 5, 2023, and most recently filed as WSR 24-02-059 on December 29, 2023. The amended language in this emergency rule has not changed since the last emergency rule filing.

The rules as currently written state that a nurse who has graduated from another state's approved nursing program or from a substantially equivalent program may be licensed in Washington. The board became aware that certain nursing programs in Florida and elsewhere had fraudulent programs that did not meet the educational standards of any state. The emergency rule language clarifies the board's authority to protect the people of Washington by only licensing qualified, properly trained nurses who meet minimum educational standards.

These emergency rules clarify that RN and LPN applicants, applying for licensure via interstate endorsement or for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, must successfully complete a nursing education program in another United States state, which is approved by the nursing board in that state and substantially meets requirements for nursing education approved in Washington state. The amendments also reaffirm that the board retains the authority to evaluate and determine the sufficiency of academic preparation for all applicants. These amendments are preliminary steps to future permanent rule amendments and clarification identified by the board's licensing subcommittee.

Citation of Rules Affected by this Order: Amending WAC 246-840-030 and 246-840-090.

Statutory Authority for Adoption: RCW 18.79.110.

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 these rules is necessary for the preservation of the public health, safety, and general welfare and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary

to the public interest. Adoption of emergency rules described above is necessary to ensure nurses working in Washington state meet minimum standards for safe practice. This emergency rule will be refiled every 120 days until permanent rule making is completed. Permanent rule making is currently in process and is almost completed.

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 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]: April 26, 2024.

Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director

OTS-4435.6

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-030 Initial licensure for registered nurses and practical nurses—Out-of-state traditional nursing education program approved by another United States nursing board. (1) Registered ~~((nursing))~~ nurse and practical ~~((nursing))~~ nurse applicants educated in a traditional nursing education program approved by another United States nursing board and applying for initial licensure ~~((must))~~ shall:

~~((1))~~ (a) Successfully complete a ~~((board-approved))~~ nursing education program in another U.S. state, which:

(i) Is approved by the nursing board in that state; and

(ii) Substantially meets requirements for nursing education approved in Washington state. The board retains authority to evaluate and determine the sufficiency of academic preparation for all applicants.

~~((Applicants from a board approved registered nurse program who are applying for a practical nurse license:~~

~~(a) Complete all course work required of board approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.~~

~~(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.~~

~~(2))~~ (b) Successfully pass the ~~((commission))~~ board-approved licensure examination as provided in WAC 246-840-050.

~~((3))~~ (c) Submit the following documents:

~~((a))~~ (i) A completed licensure application with the required fee as defined in WAC 246-840-990.

~~((b))~~ (ii) An official transcript sent directly from the applicant's nursing education program to the ~~((commission))~~ board. The transcript must include course names and credits accepted from other programs. The transcript must show:

~~((i))~~ (A) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or

~~((ii))~~ (B) That the applicant has completed all course work required in a ~~((commission))~~ board-approved practical nurse program as listed in WAC ~~((246-840-575(2)))~~ 246-840-539.

~~((e-Applicants))~~ (iii) An applicant from a board-approved registered nurse program who ~~((are))~~ is applying for a practical nurse license ~~((must))~~ shall also submit an attestation sent from the nurse administrator of the applicant's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.

(2) An applicant from an out-of-state board-approved registered nurse program who is applying for a practical nurse license shall:

(a) Complete all course work required of board-approved practical nurse programs as listed in WAC 246-840-539. Required courses not included in the registered nurse program may be accepted if the courses were obtained through a board-approved program.

(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-090 Licensure for nurses by interstate endorsement.

Registered nurse and practical nurse applicants for interstate endorsement may be issued a license without examination provided the applicant meets the following requirements:

(1) The applicant graduated and holds a degree from:

(a) A ~~((commission or))~~ state board-approved program preparing candidates for licensure as a nurse, which substantially meets requirements for nursing education approved in Washington state, as determined by the board; or

(b) A nursing program that is equivalent to ~~((commission))~~ board-approved nursing education in Washington state at the time of graduation as determined by the ~~((commission))~~ board.

(2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory and successfully completes a ~~((commission))~~ board-approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the ~~((commission))~~ board to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

(3) The applicant was originally licensed to practice as a nurse in another state or territory after passing the National Council Licensure Examination (NCLEX).

(4) ~~((Applicants))~~ An applicant graduating from a nursing program ~~((s))~~ outside the U.S. ~~((must))~~ shall demonstrate English proficiency by:

(a) Passing a ~~((commission))~~ board-approved English proficiency test if the nursing education is not in one of the following countries: Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands ~~((, or complete one thousand))~~; or

(b) Completing 1,000 hours of employment as a licensed nurse in another state ~~((, or provide))~~. The 1,000 hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the board; or

(c) Providing evidence directly from the ~~((school))~~ program of earning a high school diploma or college degree from a United States institution.

~~((The one thousand hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.))~~

(5) For RNs: If the applicant is a graduate of a nontraditional nursing education program and:

(a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must submit evidence of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory))~~ shall meet the requirements defined in WAC 246-840-048.

(b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must))~~ shall submit evidence of at least ~~((one thousand))~~ 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(6) All applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the ~~((commission))~~ board if the education cannot be verified from the original board of nursing, or ~~((commission))~~ board-approved evaluation agency.

(i) The transcript must contain adequate documentation demonstrating that the applicant graduated from an approved nursing program or successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.

(ii) The transcripts ~~((shall))~~ must include course names and credits accepted from other programs.

(c) Verification of an original registered or practical nurse license from the state or territory of original licensure. The verification must identify that issuance of the original licensure included passing the NCLEX.

(d) For an applicant ~~((s))~~ educated outside the United States and in territories or countries not listed in subsection (4)(a) of this section, successful results of a ~~((commission))~~ board-approved English

proficiency exam, or, evidence of (~~one thousand~~) 1,000 hours worked as a nurse.

(e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:

(i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant (~~must~~) shall submit (~~documentation of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035 or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory~~) the requirements outlined in WAC 246-840-048.

(ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant (~~must~~) shall submit documentation of at least (~~one thousand~~) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.