

**WSR 11-06-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 11-25—Filed February 18, 2011, 9:17 a.m., effective February 18, 2011, 9:17 a.m.]

Effective Date of Rule: Immediately.

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

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546); *Northwest Gillnetters Ass'n v. Sandison*, 95 Wn.2d 638, 628 P.2d 800 (1981); Washington fish and wildlife commission policies concerning Columbia River fisheries; 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Sets the 2011 spring recreational salmon season in the Columbia River during March and April, in the area from Buoy 10 upstream to the Oregon/Washington border. Makes the hatchery adult bag limit in Deep River consistent with the adjacent Columbia River when both areas are open. Includes rules that prohibit filleting of fish in the field, prohibit full removal of nonlegal fish from the water and maintain the angling closure in the area of Sand Island slough. Regulation is consistent with guidance from Washington fish and wildlife commission guidance and director, and compact/joint state action of February 8, 2011. The fishery is consistent with the *U.S. v Oregon* Management Agreement and the associated biological opinion. Conforms Washington state rules with Oregon state rules. There is insufficient time to adopt permanent rules.

Washington and Oregon jointly regulate Columbia River fisheries under the congressionally ratified Columbia River Compact. Four Indian tribes have treaty fishing rights in the Columbia River. The treaties preempt state regulations that fail to allow the tribes an opportunity to take a fair share of the available fish; and the states must manage other fisheries accordingly. *Sohappy v. Smith*, 302 F. Supp. 899 (D. Or. 1969). A federal court order sets the current parameters for sharing between treaty Indians and others. *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2008-2017 *United States v. Oregon* Management Agreement (Aug. 12, 2008) (Doc. No. 2546).

Some Columbia River Basin salmon and steelhead stocks are listed as threatened or endangered under the federal ESA. On May 5, 2008, 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 treaty and nontreaty Columbia River fisheries governed by the 2008-2017 *U.S. v. Oregon* Management Agreement. The Washington and Oregon fish and wildlife commissions have developed policies to guide the implementation of such biological opinions in the states' regulation of nontreaty fisheries.

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

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

Number of Sections Adopted at 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: February 18, 2011.

Philip Anderson  
Director

NEW SECTION

**WAC 232-28-61900Z Exceptions to statewide rules—Columbia River.** Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

**1. Columbia River:**

i. From a true north-south line through Buoy 10 to a true North/South line projected from Rooster Rock on the Oregon shore to the Washington shoreline: Effective March 1 through April 4, 2011: Fishing for salmonids and shad is open 7 days per week. Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than one may be an adult Chinook. Release all wild Chinook.

ii. From a true north/south line projected from Rooster Rock on the Oregon shore to the Washington shoreline upstream to 600 feet below the fish ladder at the new Bonnaville Dam powerhouse: Effective March 1 through April 4,

2011: Closed to fishing for salmonids and shad from boats. Open to fishing for salmonids and shad from the bank only, 7 days per week. Daily salmonid limit is 6 fish (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adults and no more than one may be an adult Chinook. Release all wild Chinook.

iii. From Tower Island power lines in Bonneville Pool upstream to the Oregon and Washington border, plus the Washington bank between Bonneville Dam and the Tower Island power lines located approximately 6 miles below The Dalles Dam (except for those waters closed under permanent regulations): Effective March 16 through April 24, 2011: daily salmonid limit is 6 fish, (hatchery Chinook or hatchery steelhead), of which no more than 2 may be adult Chinook salmon or hatchery steelhead or one of each. Release all wild Chinook.

iv. Effective immediately through June 15, 2011: For the mainstem Columbia River salmon and steelhead fishery from the Rocky Point/Tongue Point line upstream to Oregon/Washington border, it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

v. Effective immediately until further notice: On the mainstem Columbia River below Bonneville Dam, anglers may not possess in the field fish mutilated so that size, species or fin clip cannot be determined until anglers have reached their automobile or principle means of land transportation and have completed their daily angling.

vi. Effective immediately through April 30, 2011, all angling is prohibited from a line between the upstream end of Sand Island, located east of Rooster Rock State Park on the Columbia River, to a marker on the Oregon shore, downstream to a line between the lower end of Sand Island and a marker on the Oregon shore

**2. Deep River (Wahkiakum Co.):** Effective March 1 through June 15, 2011: the hatchery adult Chinook daily limit will be the same as the adjacent mainstem Columbia River during those days when the mainstem Columbia River is open for adult Chinook retention. When the adjacent mainstem Columbia River is closed for adult Chinook retention, the salmon daily limit will revert to permanent rules for Deep River.

**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.

**WSR 11-06-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed February 18, 2011, 10:34 a.m., effective February 26, 2011]

Effective Date of Rule: February 26, 2011.

Purpose: The division of child support (DCS) is filing this third emergency rule to maintain the status quo after filing the rule-making order (CR-103P) for the adoption of final

rules on this subject. Because the second emergency rule will expire on February 25, which is before the final rules take effect on the thirty first day after the CR-103P is filed, this third emergency rule is necessary.

These rule changes were adopted to comply with the budget for state fiscal year 2011, which required DCS to change its distribution rules regarding collections from federal tax refund offsets so that those collections are (1) applied only to child support arrears and (2) applied first to debt that has been assigned to the state. DCS adopted emergency rules effective July 1, 2010, under WSR 10-14-063; the second emergency rules were effective October 29, 2010, under WSR 10-22-047. The CR-103P, Rule-making order, for the final rules, is being filed contemporaneously with this CR-103E.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-5001 What procedures does DCS follow to distribute support collections?, 388-14A-5002 How does DCS distribute support collections in a nonassistance case?, 388-14A-5003 How does DCS distribute support collections in an assistance case?, 388-14A-5004 How does DCS distribute support collections in a former assistance case?, 388-14A-5005 How does DCS distribute federal tax refund offset collections?, 388-14A-5006 How does DCS distribute support collections when the paying parent has more than one case?, and 388-14A-5010 How does the division of child support distribute federal tax refund offset collections from joint returns?

Statutory Authority for Adoption: RCW 26.23.035, 34.05.350 (1)(c).

Under RCW 34.05.350 the agency for good cause finds that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The budget for state fiscal year 2011 requires DCS to change its distribution rules regarding collections from federal tax refund offsets so that those collections are (1) applied only to child support arrears and (2) applied first to debt that has been assigned to the state.

At the time DCS filed its first emergency rules, immediate adoption was necessary in order to meet the state's budget requirements; there was not sufficient time to allow the time requirements under the Administrative Procedure Act, chapter 34.05 RCW, to follow the regular rule adoption process. At the time of the first emergency rule filing, DCS did file the CR-101, Preproposal notice of inquiry, and the public rule-making hearing was held on January 4, 2011. The CR-103P, Rule-making order, adopting the final rules, is being filed contemporaneously with this emergency rule-making order, and the final rules will be effective thirty-one days after the filing of the CR-103P.

Members of the public who wish to participate in the DCS rule-making process are encouraged to contact the DCS rules coordinator, Nancy Koptur, DCS Headquarters, P.O. Box 9162, Olympia, WA 98507-9162, or [nkoptur@dshs.wa.gov](mailto:nkoptur@dshs.wa.gov).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 7, Repealed 0.

Number of Sections Adopted at 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 7, Repealed 0.

Date Adopted: February 17, 2011.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5001 What procedures does DCS follow to distribute support collections?** (1) When distributing support collections, the division of child support (DCS) records collections in exact amounts of dollars and cents.

(2) DCS distributes support collections within two days of the date DCS receives the collection, unless DCS is unable to distribute the collection for one or more of the following reasons:

(a) ~~((The location of)) DCS is unable to locate the payee ((is unknown)) and the payee has not signed up for electronic funds transfer (EFT) of disbursements;~~

(b) DCS does not have sufficient information to identify the accounts against which or to which it should distribute the money;

(c) An action is pending before a court or agency which has jurisdiction over the issue to determine whether child support is owed or how DCS should distribute the collection.

(d) DCS receives prepaid child support and is holding it for distribution in future months under ~~((subsection (2)(e) of this section))~~ WAC 388-14A-5008;

(e) DCS mails a notice of intent to distribute support money ~~((to the custodial parent (CP)))~~ under WAC 388-14A-5050;

(f) DCS receives federal tax refund offset collections, which are distributed according to WAC 388-14A-5005 and 388-14A-5010.

(g) DCS may hold funds and not issue a check to the family for amounts under one dollar. DCS must give credit for the collection, but may delay disbursement of that amount until a future collection is received which increases the amount of the disbursement to the family to at least one dollar. If no future collections are received which increase the disbursement to the family to at least one dollar, DCS transfers the amount to the department of revenue under RCW 63.29.130. This subsection does not apply to disbursements which can be made by ~~((electronic funds transfer (-)EFT((-); or to refunds of federal tax refund offset collections))~~; or

~~((g))~~ (h) Other circumstances exist which make a proper and timely distribution of the collection impossible through no fault or lack of diligence of DCS.

(3) DCS distributes support collections based on the date DCS receives the collection, except as provided under WAC 388-14A-5005. DCS distributes support collections based on the date of collection. DCS considers the date of collection to be the date that DCS receives the support collection, no matter when the money was withheld from the noncustodial parent (NCP).

(4) Under state and federal law, the division of child support (DCS) disburses support collections to the:

(a) Department when the department provides or has provided public assistance payments for the support of the family;

(b) Payee under the order, or to the custodial parent (CP) of the child according to WAC 388-14A-5050;

(c) Child support enforcement agency in another state or foreign country which submitted a request for support enforcement services;

(d) Indian tribe which has a TANF program, child support program and/or a cooperative agreement regarding the delivery of child support services;

(e) Persons or entity making the payment when DCS is unable to identify the person to whom the support is payable after making reasonable efforts to obtain identification information.

(5) If DCS is unable to disburse a support collection because the location of the family or person is unknown, it must exercise reasonable efforts to locate the family or person. When the family or person cannot be located, DCS handles the collection in accordance with chapter 63.29 RCW, the uniform unclaimed property act.

(6) WAC 388-14A-5000 through 388-14A-5015 contain the rules for the distribution of support collections by DCS.

(7) DCS changes the distribution rules based on changes in federal statutes and regulations. DCS may also change the distribution rules based on the state budget, but only to the extent allowed by federal law.

**AMENDATORY SECTION** (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5002 How does DCS distribute support collections in a nonassistance case?** (1) A nonassistance case is one where the family has never received a cash public assistance grant.

(2) Subject to the exceptions provided under WAC 388-14A-5005, the division of child support (DCS) applies support collections within each Title IV-D nonassistance case:

(a) First, to satisfy the current support obligation for the month DCS received the collection;

(b) Second, to the noncustodial parent's support debts owed to the family;

(c) Third, to prepaid support as provided for under WAC 388-14A-5008.

(3) DCS uses the fee retained under WAC 388-14A-2200 to offset the fee amount charged by the federal government for IV-D cases that meet the fee criteria in WAC 388-14A-2200(1).

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5003 How does DCS distribute support collections in an assistance case?** (1) An assistance case is one where the family is currently receiving a TANF grant.

(2) Subject to the exceptions provided under WAC 388-14A-5005, the division of child support (DCS) distributes support collections within each Title IV-D assistance case:

(a) First, to satisfy the current support obligation for the month DCS received the collection;

(b) Second, to satisfy support debts which are permanently assigned to the department to reimburse the cumulative amount of assistance which has been paid to the family;

(c) Third:

(i) To satisfy support debts which are temporarily assigned to the department to reimburse the cumulative amount of assistance paid to the family; or

(ii) To satisfy support debts which are conditionally assigned to the department. Support collections distributed to conditionally assigned arrears are disbursed according to WAC 388-14A-2039.

(d) Fourth, to satisfy support debts owed to the family;

(e) Fifth, to prepaid support as provided for under WAC 388-14A-5008.

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5004 How does DCS distribute support collections in a former assistance case?** (1) A former assistance case is one where the family is not currently receiving a TANF grant, but has at some time in the past.

(2) Subject to the exceptions provided under WAC 388-14A-5005, the division of child support (DCS) distributes support collections within each Title IV-D former-assistance case:

(a) First, to satisfy the current support obligation for the month DCS received the collection;

(b) Second, to satisfy support debts owed to the family;

(c) Third, to satisfy support debts which are conditionally or temporarily assigned to the department. These collections are disbursed according to WAC 388-14A-2039;

(d) Fourth, to satisfy support debts which are permanently assigned to the department to reimburse the cumulative amount of assistance which has been paid to the family; and

(e) Fifth, to prepaid support as provided for under WAC 388-14A-5008.

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5005 How does DCS distribute federal tax refund offset collections?** The division of child support (DCS) distributes federal tax refund offset collections in accordance with 42 U.S.C. Sec. 657 and 42 U.S.C. Sec. 654(34), as follows:

(1) ~~((First, to satisfy the current support obligation for the month in which DCS received the collection.~~

~~(2) Second,)) DCS distributes ~~((any amounts over current support))~~ federal tax refund offset collections to arrears only, and not to current support.~~

(2) DCS distributes federal tax refund offset collections within an individual case depending on the type of case to which the collection is distributed:

(a) In a never assistance case, all ~~((remaining))~~ amounts are distributed to family arrears, meaning those arrears which have never been assigned.

(b) In a former assistance case, all ~~((remaining))~~ amounts are distributed first to ~~((family))~~ permanently assigned arrears, then to ~~((permanently))~~ conditionally assigned arrears, then to ~~((conditionally assigned))~~ family arrears.

(c) In a current assistance case, all ~~((remaining))~~ amounts are distributed first to permanently assigned arrears, then to temporarily assigned arrears (if they exist), then to conditionally assigned arrears, and then to family arrears.

(3) Federal tax refund offset collections distributed to assigned support are retained by the state to reimburse the cumulative amount of assistance which has been paid to the family.

(4) DCS may distribute federal tax refund offset collections only to certified support debts ~~((and to current support obligations on cases with certified debts))~~. DCS must refund any excess to the noncustodial parent (NCP).

(5) DCS may retain the twenty-five dollar annual fee required under the federal deficit reduction act of 2005 and RCW 74.20.040 from federal tax refund offset collections distributed to nonassistance cases.

(6) When the Secretary of the Treasury, through the federal Office of Child Support Enforcement (OCSE), notifies DCS that a collection from a federal tax refund offset is from a tax refund based on a joint return, DCS follows the procedures set forth in WAC 388-14A-5010.

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5006 How does DCS distribute support collections when the paying parent has more than one case?** ~~((When the NCP has more than one Title IV-D case))~~ Subject to the exceptions provided under WAC 388-14A-5005, the division of child support (DCS) distributes support collections in the following manner when the non-custodial parent (NCP) has more than one Title IV-D case:

(1) First, to the current support obligation on each Title IV-D case, in proportion to the amount of the current support order on each case; and

(2) Second, to the total of the support debts whether owed to the family or to the department for the reimbursement of public assistance on each Title IV-D case, in proportion to the amount of support debt owed by the NCP on each case; and

(3) Third, within each Title IV-D case according to WAC 388-14A-5002, 388-14A-5003, or 388-14A-5004.

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

**WAC 388-14A-5010 How does the division of child support distribute federal tax refund offset collections**

from joint returns? (1) The division of child support (DCS) collects child support through the interception of federal tax refunds. This section deals with the issues that arise when the Secretary of the Treasury intercepts a tax refund based on a joint tax return filed by a noncustodial parent (NCP) and the NCP's spouse who does not owe child support.

(2) When the Secretary of the Treasury, through the federal Office of Child Support Enforcement (OCSE), notifies DCS that a collection on behalf of an NCP is from an intercepted tax refund based on a joint return, DCS may distribute fifty percent of that collection as provided in WAC 388-14A-5005 and hold the remainder for up to six months in case the NCP's spouse is entitled to a share of the federal tax refund.

(3) DCS distributes fifty percent of the collection according to WAC 388-14A-5005.

(4) DCS holds the other fifty percent of the collection in suspense until the earlier of the following:

(a) DCS is notified by OCSE or the Secretary of the Treasury whether DCS must pay back the unobligated spouse's portion of the refund; or

(b) For a period not to exceed six months from notification of the offset.

(5) After DCS holds part of a collection under subsection (4) of this section, DCS distributes the remainder of the collection to the NCP's support ((obligations if) arrears according to WAC 388-14A-5005, unless DCS is ((not) required to return the unobligated spouse's portion of the refund. The CP may:

(a) Request that DCS distribute the payment to the NCP's support obligation sooner upon a showing of hardship to the CP; and

(b) Request a conference board if the CP disagrees with DCS' denial of a hardship claim.

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 department cannot change its income standard for family medical programs due to federal "maintenance of effort" requirements. To do so would jeopardize federal funding for the programs as well as result in the loss of eligibility for some clients.

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

Number of Sections Adopted at 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 2, Repealed 0.

Date Adopted: February 17, 2011.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-15-080, filed 7/14/05, effective 8/14/05)

WAC 388-478-0065 Income and resource standards for family medical programs. (1) The categorically needy income level (CNIL) standards for family medical ((is the same as the grant payment standards for the TANF cash program as stated in WAC 388-478-0020-)) are:

(a) For assistance units with obligations to pay shelter costs:

Assistance Unit Size	Payment Standard
<u>1</u>	<u>\$359</u>
<u>2</u>	<u>453</u>
<u>3</u>	<u>562</u>
<u>4</u>	<u>661</u>
<u>5</u>	<u>762</u>
<u>6</u>	<u>866</u>
<u>7</u>	<u>1,000</u>
<u>8</u>	<u>1,107</u>
<u>9</u>	<u>1,215</u>
<u>10 or more</u>	<u>1,321</u>

(b) For assistance units with shelter provided at no cost:

Assistance Unit Size	Payment Standard
<u>1</u>	<u>\$218</u>

WSR 11-06-009

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medicaid Purchasing Administration)

[Filed February 18, 2011, 11:14 a.m., effective February 18, 2011, 11:14 a.m.]

Effective Date of Rule: Immediately.

Purpose: This is not a policy change. Currently, the rule cross references to WAC 388-478-0020 because the income standards for both family medical programs and the TANF grant program is the same. However, beginning February 1, 2011, the TANF income standard is being reduced so the family medical programs income standard must be called out in WAC 388-478-0065 which in turn requires the change to WAC 388-505-0220.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0065 and 388-505-0220.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

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

<u>Assistance Unit Size</u>	<u>Payment Standard</u>
<u>2</u>	<u>276</u>
<u>3</u>	<u>341</u>
<u>4</u>	<u>402</u>
<u>5</u>	<u>464</u>
<u>6</u>	<u>526</u>
<u>7</u>	<u>608</u>
<u>8</u>	<u>673</u>
<u>9</u>	<u>739</u>
<u>10 or more</u>	<u>803</u>

(2) The countable resource standards for family medical are the same as those of the TANF/SFA cash program as stated in WAC 388-470-0005.

(3) Each unborn child is counted as a household member when determining household size for:

- (a) Family medical;
- (b) Pregnancy medical; and
- (c) Children's medical.

**AMENDATORY SECTION** (Amending WSR 08-19-099 and 08-20-014, filed 9/17/08 and 9/18/08, effective 10/18/08 and 10/19/08)

**WAC 388-505-0220 Family medical eligibility.** (1) A person is eligible for categorically needy (CN) medical assistance when they are:

- (a) Receiving temporary assistance for needy families (TANF) cash benefits;
- (b) Receiving Tribal TANF;
- (c) Receiving cash diversion assistance, except SFA relatable families, described in WAC 388-400-0010(2);
- (d) Eligible for TANF cash benefits but choose not to receive; ((e))
- (e) Over the TANF cash payment standard but under the family medical payment standard as described in WAC 388-478-0065; or
- (f) Not eligible for or receiving TANF cash assistance, but meet the eligibility criteria for aid to families with dependent children (AFDC) in effect on July 16, 1996 except that:
  - (i) Earned income is treated as described in WAC 388-450-0210; and
  - (ii) Resources are treated as described in WAC 388-470-0005 for applicants and 388-470-0026 for recipients.

(2) An adult cannot receive a family medicaid program unless the household includes a child who is eligible for:

- (a) Family medicaid;
- (b) SSI; or
- (c) Children's medicaid.

(3) A person is eligible for CN family medical coverage when the person is not eligible for or receiving cash benefits solely because the person:

- (a) Received sixty months of TANF cash benefits or is a member of an assistance unit which has received sixty months of TANF cash benefits;
- (b) Failed to meet the school attendance requirement in chapter 388-400 WAC;

(c) Is an unmarried minor parent who is not in a department-approved living situation;

(d) Is a parent or caretaker relative who fails to notify the department within five days of the date the child leaves the home and the child's absence will exceed one hundred eighty days;

(e) Is a fleeing felon or fleeing to avoid prosecution for a felony charge, or is a probation and parole violator;

(f) Was convicted of a drug related felony;

(g) Was convicted of receiving benefits unlawfully;

(h) Was convicted of misrepresenting residence to obtain assistance in two or more states;

(i) Has gross earnings exceeding the TANF gross income level; or

(j) Is not cooperating with WorkFirst requirements.

(4) An adult must cooperate with the division of child support in the identification, use, and collection of medical support from responsible third parties, unless the person meets the medical exemption criteria described in WAC 388-505-0540 or the medical good cause criteria described in chapter 388-422 WAC.

(5) Except for a client described in WAC 388-505-0210(6), a person who is an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for CN or MN medical coverage.

**WSR 11-06-015**

**EMERGENCY RULES**

**DEPARTMENT OF HEALTH**

[Filed February 23, 2011, 10:12 a.m., effective March 1, 2011]

Effective Date of Rule: March 1, 2011.

Purpose: Chapter 246-296 WAC, Drinking water state revolving fund loan program (DWSRF). The rule is necessary to maintain federal primacy with the United States Environmental Protection Agency (EPA). The 2010 federal appropriations bill under section 1452 of the Safe Drinking Water Act includes new criteria for water systems to obtain a DWSRF loan. To maintain federal primacy with the EPA and continue the DWSRF loan program, these changes are necessary to establish eligibility requirements for Group A public drinking water systems for funding infrastructure improvements in the form of principal forgiveness, criteria for green projects, and for water systems that are restructuring which may include ownership changes, and consolidation of water systems.

Citation of Existing Rules Affected by this Order: Amending WAC 246-296-020 Definitions.

Statutory Authority for Adoption: RCW 70.119A.170.

Other Authority: Safe Drinking Water Act.

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

Reasons for this Finding: The Administrative Procedure Act allows the department to adopt an emergency rule as follows:

(1) If an agency for good cause finds:

(a) 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;

(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; or

(c) In order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

The agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis. The agency's finding and a concise statement of the reasons for its finding shall be incorporated in the order for adoption of the emergency rule or amendment filed with the office of the code reviser under RCW 34.05.380 and with the rules review committee.

The 2010 federal appropriations bill, enacted October 31, 2009, funds section 1452 of Safe Drinking Water Act and includes criteria for Group A public water systems that obtain a DWSRF loan. On December 8, 2010, the United States House of Representatives approved a continuing resolution so the requirements enacted in the 2010 federal appropriations bill would remain in effect. To make these funds available in Washington state, the department must immediately adopt a rule for the SRF program, as described below.

The enacted bill contains a number of new requirements that are not currently in rule. The state must assure that our requirements align with these requirements in order to receive this funding. Specifically, the bill requires at least thirty percent of the new federal award be given out as subsidy to eligible recipients and at least twenty percent of the federal award must be used for eligible green projects. The existing DWSRF rules do not identify any form of funding other than traditional loans with full repayment, nor do they address funding of green projects.

The necessary rule changes must be in place prior to awarding the appropriations funds. The process of awarding funds includes project screening, ranking, and selection. This process must begin March 1, 2011, in order to award funding to eligible recipients within the current federal fiscal year. After completing the screening, ranking, and selection process, the department must publish for review and comment a draft intended use plan (IUP) that includes a list of fundable projects. IUPs are required to be submitted with the state's application to EPA for the funding. States cannot access the funds until that process is complete. The department plans to publish a draft IUP in May. The short timeframe between the adoption of the federal appropriations bill and the deadline for publication of the IUP do not allow use of the normal rule-making process. Therefore, an emergency rule is necessary in order to meet the requirements of the federal appropriations bill.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 1, 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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Date Adopted: February 23, 2011.

Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-020 Definitions. "Act"** means the federal Safe Drinking Water Act (SDWA).

**"Application"** means a DWSRF loan application submitted to DOH for DWSRF assistance.

**"Application package"** means DWSRF loan application form(s), requirements, terms of assistance, and related information jointly developed and published by DOH, the board, and the board's agent, ~~((CFED))~~ COM.

**"Binding commitment"** means a legal obligation by the state to an assistance recipient that defines the terms and the timing for assistance under this chapter.

**"Board"** means the state of Washington public works board.

**"Borrower"** means the entity or individual that has the legal and financial responsibility for the loan.

**"Certification/certify"** means documentation signed by the loan recipient that specific requirements or standards have been or will be met.

**"Change orders"** means a formal document that alters specific conditions of the original construction contract document including a change in the scope of work, contract price, construction methods, construction schedule, change in location, size, capacity, or quality of major equipment.

**"COM"** means the department of commerce.

**"Community water system"** means any Group A public water system that regularly serves fifteen or more year-round residential connections, or twenty-five or more year-round residents for one hundred eighty or more days per year.

~~("Construction documents" means construction documents developed and approved under WAC 246-290-120.)~~

**"Construction completion report"** means a form provided by DOH to the applicant required to be completed for each specific construction project to document project construction in accordance with chapter 246-290 WAC and general standards of engineering practice. The completed form must be stamped with an engineer's seal, signed, and dated by a professional engineer.

**"Construction documents"** means construction documents developed and approved under WAC 246-290-120.

**"Cross-cutting authorities"** means federal or state laws and authorities that apply to projects or activities receiving federal or state assistance.

**"CTED"** means the department of community, trade and economic development.

**"Debt obligation"** means a legal obligation or liability to pay something to someone else.

**"Default"** means failure to meet a financial obligation such as a loan payment.

**"Disadvantaged community"** means the service area of a public water system (~~where at least fifty-one percent of the customers are at or below eighty percent of the county median household income as defined annually by the Federal Department of Housing and Urban Development~~) in which the proposed project cost will result in water rates that exceed 1.5 percent of the median household income of the area; or one in which the proposed project will result in the restructuring of one or more water systems experiencing technical, financial, and managerial difficulties.

~~("Distressed county" means a county that is designated by the Washington state employment security department as distressed.)~~

**"DOH"** means the department of health.

**"Drinking water state revolving fund (DWSRF)"** means the program established to administer the federal funds and other funds deposited in the account authorized to finance water system infrastructure, drinking water program activities, and to meet the applicable requirements of RCW 70.119A.170.

**"Eligible system"** means Group A community water systems, both privately and publicly owned, and nonprofit Group A noncommunity water systems.

**"EPA"** means the United States Environmental Protection Agency.

**"Group A system"** means a public water system that regularly serves fifteen or more residential connections, or twenty-five or more people per day for sixty or more days per year.

**"Group B system"** means a public water system that serves less than fifteen residential connections and less than twenty-five people per day, or serves twenty-five or more people per day for sixty or fewer days per year.

**"Individual water supply system"** means any water system that is not subject to the state board of health drinking water regulations, chapter 246-290 WAC; or chapter 246-291 WAC, providing water to one single-family residence, or four or fewer connections all of which serve residences on the same farm.

**"Intended use plan (IUP)"** means the federally required document prepared each year by the state which identifies the intended uses of the funds in the DWSRF and describes how those uses support the goals of the DWSRF.

**"HUD"** means the United States Department of Housing and Urban Development.

**"Loan"** means an agreement between the DWSRF and the assistance recipient through which the DWSRF provides funds for eligible assistance and the recipient agrees to repay the ~~((principle))~~ principal sum to the DWSRF except when

the funds are provided in the form of a loan on which all or some of the principal is forgiven.

**"Multiple benefit"** means project improvements that address more than one type of health risk.

**"Noncommunity water system"** means a Group A public water system that is not a community water system.

**"Nonprofit organization"** means a system that has a federal tax exempt status identification number.

**"Nontransient noncommunity system"** means a Group A noncommunity water system that serves twenty-five or more of the same people per day for one hundred eighty or more days per year.

**"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.

**"Project report"** means a project report developed and approved under chapter 246-290 WAC.

**"Public water system"** means any system, providing water for human consumption through pipes or other constructed conveyances excluding systems serving only one single-family residence and systems with four or fewer connections all of which serve residences on the same farm.

**"Purveyor"** means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person, or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities.

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

**"Restructuring"** means changing system ~~((operation, management and/or))~~ ownership, including, but not limited to:

- (1) Mergers;
- (2) ~~((Voluntary))~~ Transfer of ownership; or
- (3) Receivership (involuntary transfer of operation and/or ownership).

**"Safe Drinking Water Act (SDWA)"** means the federal Safe Drinking Water Act, including all amendments.

**"Satellite management agency (SMA)"** means a person or entity that is approved by the department of health to own or operate public water systems on a regional or county-wide basis, without the necessity for a physical connection between such systems. SMA's are regulated under chapter 246-295 WAC.

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

**"Significant noncomplier (SNC)"** means a water system that is violating or has violated department rules and the violations may create or have created an imminent or a significant risk to human health.

**"Small water system management program (SWSMP)"** means a small water system management program developed and approved under WAC 246-290-105.

**"State environmental review process (SERP)"** means the environmental review process conducted on all DWSRF projects that ensures compliance with state and federal envi-



ronmental review through a National Environmental Policy Act (NEPA)-like process.

**"State match"** means funds equaling at least twenty percent of the amount of the federal capitalization grants the state must deposit into the DWSRF loan fund including the necessary match for set-asides.

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

**"System capacity"** means the system's operational, technical, managerial and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

**"Transfer of ownership"** means to convey ownership of a water system from one person or entity to another.

**"Transient noncommunity system"** means a Group A noncommunity water system that serves:

(1) Twenty-five or more different people per day during sixty or more days per year;

(2) Twenty-five or more of the same people per day for less than one hundred eighty days per year and during more than fifty-nine days per year; or

(3) One thousand or more people for two or more consecutive days.

**"Water facilities inventory form (WFI)"** means the DOH form summarizing each public water system's characteristics.

**"Water right"** means 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.

**"Water system plan (WSP)"** means a water system plan developed and approved under WAC 246-290-100.

#### NEW SECTION

**WAC 246-296-185 Implementation of Public Law 111-88 Making Appropriations for the Department of the Interior, Environment, and Related Agencies for the Fiscal Year Ending September 30, 2010, and for other purposes.** (1) Purpose and intent.

(a) The purpose of this section is to implement the requirements of Public Law (P.L.) 111-88 Making Appropriations for the Department of the Interior, Environment, and Related Agencies for the Fiscal Year Ending September 30, 2010, and for other purposes.

(b) The DWSRF rules in this chapter apply to the federal fiscal year 2010 DWSRF funds except as otherwise provided in this section. If a conflict exists between the rules in this chapter and P.L. 111-88, P.L. 111-88 shall control.

(2) Provision of funds.

(a) Notwithstanding the requirements of section 1452(f) of the Safe Drinking Water Act, 42 U.S.C. Sec. 300j-12(f), the state will provide at least thirty percent of the amount of the 2010 federal grant to provide additional subsidization to eligible recipients in the form of forgiveness of principal.

(b) To the extent there are sufficient eligible applications, the state will provide at least twenty percent of the amount of the 2010 federal grant for green projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities.

(c) In addition to the prioritization criteria listed in WAC 246-296-130, DOH may consider the requirements in (a) or (b) of this subsection for additional subsidies or green projects when ranking projects.

(d) In addition to the criteria identified in WAC 246-296-140, the board, in consultation with DOH, may consider the requirements in (a) or (b) of this subsection for additional subsidies or green projects in the final project selection.

(3) Qualification for principal forgiveness.

(a) If the water system is located in a disadvantaged community, a project may be awarded a loan with principal forgiveness for at least fifty percent of the loan amount.

(b) If the project results in restructuring of a water system that involves a change of ownership prior to loan execution, the project may be awarded a loan with principal forgiveness for at least fifty percent of the loan amount.

(c) If the project does not fall under (a) or (b) of this subsection, it may be awarded a low interest loan.

(4) Loan fee. A loan fee of one percent will be charged on all loans including those loans on which all, some or none of the principal is forgiven.

#### **WSR 11-06-022**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 11-27—Filed February 23, 2011, 4:41 p.m., effective February 23, 2011, 4:41 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07100G; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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: Harvestable amounts of sea cucumbers are available in the sea cucumber districts listed. 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 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 23, 2011.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-07100H Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1, seven days per week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5, seven days per week.

#### REPEALER

The following section of the Washington Administrative code is repealed:

WAC 220-52-07100G Sea cucumbers. (11-03)

**WSR 11-06-027  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 11-28—Filed February 25, 2011, 11:10 a.m., effective February 25, 2011, 11:10 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Q; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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 2010-2011 forecast of wild steelhead returning to the Snohomish River system is well below the spawning goal. These closures will reduce the incidental hooking mortalities of wild steelhead. Puget Sound wild steelhead populations are listed as "threatened" under the Endangered Species Act. 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 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: February 25, 2011.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900A Exceptions to statewide rules.** Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, the following waters are closed to fishing for all game fish:

- **Snohomish River:** from the mouth (Burlington Northern railroad bridge) upstream to confluence of the Skykomish and Snoqualmie rivers.
- **Skykomish River:** From the mouth to the Highway 2 bridge at the Big Eddy Access.
- **Skykomish River:** From the Highway 2 bridge at the Big Eddy Access to confluence of North and South forks.
- **North Fork Skykomish River:** From the mouth to 1000 feet downstream of Bear Creeks Falls.
- **South Fork Skykomish River:** From the mouth to 600 feet downstream of Sunset Falls Fishway.
- **Pilchuck River:** From the mouth to 500 feet downstream of the Snohomish City diversion dam.
- **Sultan River:** From the mouth to 400 feet downstream of diversion dam (river mile 9.7).
- **Wallace River:** From the mouth (farthest downstream railroad bridge) to 200 feet upstream of the water intake of the salmon hatchery.
- **Wallace River:** From 200 feet upstream the of the water intake of the salmon hatchery to Wallace Falls.
- **Snoqualmie River:** From the mouth to the boat ramp at Plumb access.
- **Snoqualmie River:** From the boat ramp at Plumb access to Snoqualmie Falls.
- **Tolt River:** From the mouth to the USGS trolley cable near the confluence of the North and South Forks.
- **Raging River:** From the mouth to the Highway 18 Bridge.
- **Tokul Creek:** From the mouth to the posted cable boundary marker.

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

REPEALER

The following section of the Washington Administrative Rule is repealed:

WAC 232-28-61900Q Exceptions to statewide rules. (11-07)

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

**WSR 11-06-030**  
**EMERGENCY RULES**  
**BUILDING CODE COUNCIL**

[Filed February 25, 2011, 12:16 p.m., effective February 25, 2011, 12:16 p.m.]

Effective Date of Rule: Immediately.

Purpose: To further extend the emergency declaration filed under WSR 10-22-052.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-0903 and 51-54-0900.

Statutory Authority for Adoption: Chapter 19.27 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: This amendment would provide a square foot threshold (5000 sq. ft.) above which sprinklers would be required in Occupancy Group M where upholstered furniture is sold, including mattresses. Under the current provisions there is no threshold; as currently written sprinklers would be required whenever a piece of upholstered furniture is present for sale, regardless of the square footage; this is essentially unenforceable by local officials. This was not intended to apply to all furniture stores, and could result in extreme economic impacts to small businesses, if this editorial error is not corrected. The change would make the code consistent with the most current life safety code for firefighters.

The council has adopted a permanent rule to be effective after the 2011 legislative session per RCW 19.27.074.

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 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 1, Repealed 0.

Date Adopted: February 25, 2011.

Kristyn Clayton  
Chair

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-0903 Section 903—Automatic sprinkler systems.**

**903.2.1.6 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. ~~((An existing nightclub constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2009.))~~

**903.2.3 Group E.** An automatic sprinkler system shall be provided for Group E Occupancies.

EXCEPTIONS:

1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code.
2. Group E occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.1.

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m<sup>2</sup>).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).
4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m<sup>2</sup>).

**903.2.8 Group R.** An automatic fire sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

- Group R-1 if all of the following conditions apply:
  1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
  2. The Group R fire area is only one story.
  3. The Group R fire area does not include a basement.
  4. The Group R fire area is no closer than 30 feet from another structure.
  5. Cooking is not allowed within the Group R fire area.
  6. The Group R fire area has an occupant load of no more than 8.
  7. A hand held (portable) fire extinguisher is in every Group R fire area.

AMENDATORY SECTION (Amending WSR 10-03-100, filed 1/20/10, effective 7/1/10)

**WAC 51-54-0900 Chapter 9—Fire protection systems.**

**902.1 Definitions.**

**ALERT SIGNAL.** See Section 402.1.

**ALERTING SYSTEM.** See Section 402.1.

**PORTABLE SCHOOL CLASSROOM.** A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

**903.2.3 Group E.** An automatic sprinkler system shall be provided for Group E Occupancies.

EXCEPTIONS:

1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code.
2. Group E Occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.1.

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m<sup>2</sup>).
2. A group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).
4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m<sup>2</sup>).

**903.2.8 Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION:

Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

**903.6.3 Nightclub.** Existing nightclubs constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2009.

#### SECTION 906—PORTABLE FIRE EXTINGUISHERS

**906.1 Where required.** Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including, but not limited to, laboratories, computer rooms and generator rooms, where required by the fire code official.

#### SECTION 907—FIRE ALARM AND DETECTION SYSTEMS

**[F] 907.2.8 Group R-1.** Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-1 occupancies as required in this section and Section 907.2.8.4.

**[F] 907.2.8.4. Carbon monoxide alarms.** For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in sleeping units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.

**[F] 907.2.8.4.1 Existing sleeping units.** Existing sleeping units shall be equipped with carbon monoxide alarms by July 1, 2011.

**[F] 907.2.8.4.2 Alarm requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

**[F] 907.2.9 Group R-2.** Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.3.

**907.2.9.1 Group R-2 boarding homes.** A manual fire alarm system shall be installed in Group R-2 occupancies where the building contains a boarding home licensed by the state of Washington.

EXCEPTION:

In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

**[F] 907.2.9.3 Carbon monoxide alarms.** For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.

**[F] 907.2.9.3.1 Existing dwelling units.** Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.

**[F] 907.2.10 Group R-3.** Carbon monoxide alarms shall be installed in Group R-3 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.

**[F] 907.2.10.1 Carbon monoxide alarms.** For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in

the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.

**[F] 907.2.10.2 Existing dwelling units.** Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.

EXCEPTION: Owner-occupied Group R-3 residences legally occupied prior to July 1, 2010.

**[F] 907.2.10.3 Alarm requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

**909.6.3 Elevator shaft pressurization.** Where elevator shaft pressurization is required to comply with Exception 6 of IBC Section 708.14.1, the pressurization system shall comply with and be maintained in accordance with IBC 708.14.2.

**909.6.3.1 Activation.** The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire code official. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

**909.6.3.2 Power system.** The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

#### SECTION 915 ALERTING SYSTEMS

**915.1 General.** An approved alerting system shall be provided in buildings and structures as required in chapter 4 and this section, unless other requirements are provided by another section of this code.

EXCEPTION: Approved alerting systems in existing buildings, structures or occupancies.

**915.2 Power source.** Alerting systems shall be provided with power supplies in accordance with Section 4.4.1 of NFPA 72 and circuit disconnecting means identified as "EMERGENCY ALERTING SYSTEM."

EXCEPTION: Systems which do not require electrical power to operate.

**915.3 Duration of Operation.** The alerting system shall be capable of operating under nonalarm condition (quiescent load) for a minimum of 24 hours and then shall be capable of operating during an emergency condition for a period of 15 minutes at maximum connected load.

**915.4 Combination system.** Alerting system components and equipment shall be allowed to be used for other purposes.

**915.4.1 System priority.** The alerting system use shall take precedence over any other use.

**915.4.2 Fire alarm system.** Fire alarm systems sharing components and equipment with alerting systems must be in accordance with Section 6.8.4 of NFPA 72.

**915.4.2.1 Signal priority.** Recorded or live alert signals generated by an alerting system that shares components with a fire alarm system shall, when actuated, take priority over fire alarm messages and signals.

**915.4.2.2 Temporary deactivation.** Should the fire alarm system be in the alarm mode when such an alerting system is actuated, it shall temporarily cause deactivation of all fire alarm-initiated audible messages or signals during the time period required to transmit the alert signal.

**915.4.2.3 Supervisory signal.** Deactivation of fire alarm audible and visual notification signals shall cause a supervisory signal for each notification zone affected in the fire alarm system.

**915.5 Audibility.** Audible characteristics of the alert signal shall be in accordance with Section 7.4.1 of NFPA 72 throughout the area served by the alerting system.

EXCEPTION: Areas served by approved visual or textual notification, where the visible notification appliances are not also used as a fire alarm signal, are not required to be provided with audibility complying with Section 915.6.

**915.6 Visibility.** Visible and textual notification appliances shall be permitted in addition to alert signal audibility.

**Reviser's note:** The brackets and enclosed material in the text of 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 11-06-031

#### EMERGENCY RULES

#### BUILDING CODE COUNCIL

[Filed February 25, 2011, 12:24 p.m., effective February 25, 2011, 12:24 p.m.]

Effective Date of Rule: Immediately.

Purpose: To further extend the emergency declaration filed under WSR 10-22-051.

Citation of Existing Rules Affected by this Order: New section WAC 51-50-1005 and amending WAC 51-54-1000.

Statutory Authority for Adoption: Chapter 19.27 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: The council finds that enforcement of the 2009 IBC section 1005 Egress Width would be extremely problematic and cause extensive confusion in the application of the building code statewide. The exception provided in the emergency rule makes the requirement consistent with the latest standard for health and safety. Enforcing the code as published in 2009 would require building designs to meet a significantly expanded prescriptive width requirement. The design changes would result in a period of time in which buildings use a radically different egress system, resulting in major economic impacts for building owners and designers and confusion resulting in a lack of compliance

compromising public health and safety. The latest code as adopted by the International Code Council for publication in 2012 requires alternative safety systems which provide greater safety without radical and costly design changes. The council has adopted a permanent rule to be effective after the 2011 legislative session per RCW 19.27.074.

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 Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Date Adopted: February 25, 2011.

Kristyn Clayton  
Chair

## NEW SECTION

### **WAC 51-50-1005 Section 1005—Egress width.**

**1005.1 Minimum required egress width.** The means of egress width shall not be less than required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.3 inches (7.62 mm) per occupant for stairways and by 0.2 inches (5.08 mm) per occupant for other egress components. The width shall not be less than specified elsewhere in this code. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress.

**EXCEPTIONS:**

1. Means of egress complying with Section 1028.
2. For other than H and I-2 occupancies, the total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.2 inches (5.1 mm) per occupant for stairways and by 0.15 inches (3.8 mm) per occupant for other egress components in buildings that are provided with sprinkler protection in accordance with 903.3.1.1 or 903.3.1.2 and an emergency voice/alarm communication system in accordance with 907.5.2.2.

**AMENDATORY SECTION** (Amending WSR 09-04-027, filed 1/28/09, effective 7/1/10)

### **WAC 51-54-1000 Chapter 10—Means of egress.**

#### **Section 1005-Egress width.**

**1005.1 Minimum required egress width.** The means of egress width shall not be less than required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.3 inches (7.62 mm) per occupant for stairways and by 0.2 inches (5.08 mm) per occupant for other egress components. The width shall not be less than specified elsewhere in this code. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress.

**EXCEPTIONS:**

1. Means of egress complying with Section 1028.
2. For other than H and I-2 occupancies, the total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.2 inches (5.1 mm) per occupant for stairways and by 0.15 inches (3.8 mm) per occupant for other egress components in buildings that are provided with sprinkler protection in accordance with 903.3.1.1 or 903.3.1.2 and an emergency voice/alarm communication system in accordance with 907.5.2.2.

**1007.1 Accessible means of egress required.** Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress are required by Section 1015.1 or 1021.1 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.

**EXCEPTIONS:**

1. Accessible means of egress are not required in alterations to existing buildings.
2. One accessible means of egress is required from an accessible mezzanine level in accordance with Section 1007.3, 1007.4 or 1007.5.
3. In assembly areas with sloped or stepped aisles, one accessible means of egress is permitted where the common path of travel is accessible and meets the requirements in Section 1028.8.
4. In parking garages, accessible means of egress are not required to serve parking areas that do not contain accessible parking spaces.

**1007.8 Two-way communication.** A two-way communication system shall be provided at the elevator landing on each accessible floor that is one or more stories above or below the story of exit discharge complying with Sections 1007.8.1 and 1007.8.2.

**EXCEPTIONS:**

1. Two-way communication systems are not required at the elevator landing where two-way communication is provided within the areas of refuge in accordance with Section 1007.6.3.
2. Two-way communication systems are not required on floors provided with exit ramps conforming to provisions of Section 1010.

**1007.8.1 System requirements.** Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not constantly attended, a two-way communication system shall have a timed automatic telephone dial-out capability to a monitoring location. The two-way communication system shall include both audible and

visible signals. The two-way communication system shall have a battery backup or an approved alternate source of power that is capable of 90 minutes use upon failure of the normal power source.

**1008.1.2 Door swing.** Egress doors shall be side-hinged swinging.

EXCEPTIONS:

1. Private garages, office areas, factory and storage areas with an occupant load of 10 or less.
2. Group I-3 Occupancies used as a place of detention.
3. Critical or intensive care patient rooms within suites of health care facilities.
4. Doors within or serving a single dwelling unit in Groups R-2 and R-3 as applicable in Section 101.2.
5. In other than Group H Occupancies, revolving doors complying with Section 1008.1.3.1.
6. In other than Group H Occupancies, horizontal sliding doors complying with Section 1008.1.3.3 are permitted in a means of egress.
7. Power-operated doors in accordance with Section 1008.1.3.2.
8. Doors serving a bathroom within an individual sleeping unit in Group R-1.
9. In other than Group H Occupancies, manually operated horizontal sliding doors are permitted in a means of egress from spaces with an occupant load of 10 or less.

Doors shall swing in the direction of egress travel where serving an occupant load of 50 or more persons or a Group H Occupancy.

The opening force for interior side-swinging doors without closers shall not exceed a 5-pound (22 N) force. For other side-swinging, sliding, and folding doors, the door latch shall release when subjected to a 15-pound (67 N) force. The door shall be set in motion when subjected to a 30-pound (133 N) force. The door shall swing to a full-open position when subjected to a 15-pound (67 N) force. Forces shall be applied to the latch side.

~~(1008.1.8.3 Locks and latches. Locks and latches shall be permitted to prevent operation of doors where any of the following exists:~~

~~1. Places of detention or restraint.~~

~~2. In buildings in occupancy Group A having an occupant load of 300 or less, Group B, F, M and S, and in places of religious worship, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:~~

~~2.1 The locking device is readily distinguishable as locked.~~

~~2.2 A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and~~

~~2.3 The use of the key-operated locking device is revocable by the fire code official for due cause.~~

~~3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.~~

~~4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt or~~

~~security chain, provided such devices are openable from the inside without the use of a key or tool.~~

~~5. Approved, listed locks without delayed egress shall be permitted in nursing homes or portions of nursing homes, and boarding homes licensed by the state of Washington, provided that:~~

~~5.1 The clinical needs of one or more patients require specialized security measures for their safety;~~

~~5.2 The doors unlock upon actuation of the automatic sprinkler systems or automatic fire detection system;~~

~~5.3 The doors unlock upon loss of electrical power controlling the lock or lock mechanism;~~

~~5.4 The lock shall be capable of being deactivated by a signal from a switch located in an approved location; and~~

~~5.5 There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.~~

~~1009.12 Stairways in individual dwelling units. Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.~~

~~1014.2.2 Group I-2. Habitable rooms or suites in Group I-2 Occupancies shall have an exit access door leading directly to a corridor.~~

EXCEPTION: Rooms with exit doors opening directly to the outside at ground level.

~~1014.2.2.1 Definition. For the purposes of this section, a suite is defined as a cluster of rooms or spaces sharing common circulation. Partitions within a suite are not required to have smoke or fire resistance-rated construction unless required by another section of this Code.~~

~~1014.2.3 Suites in patient sleeping areas. Patient sleeping areas in Group I-2 Occupancies shall be permitted to be divided into suites if one of the following conditions is met:~~

~~1. The intervening room within the suite is not used as an exit access for more than eight patient beds.~~

~~2. The arrangement of the suite allows for direct and constant visual supervision by nursing personnel.~~

~~1014.2.3.1 Area. Suites of sleeping rooms shall not exceed 5,000 square feet (465 m<sup>2</sup>).~~

~~1014.2.3.2 Exit access. Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 square feet (93 m<sup>2</sup>) shall have at least two exit access doors remotely located from each other.~~

~~1014.2.3.3 Travel distance. The travel distance between any point in a suite of sleeping rooms and an exit access door of that suite shall not exceed 100 feet (30,480 mm).~~

~~1014.2.4 Suites in areas other than patient sleeping areas. Areas other than patient sleeping areas in Group I-2 Occupancies shall be permitted to be divided into suites.~~

~~1014.2.4.1 Area. Suites of rooms, other than patient rooms, shall not exceed 10,000 square feet (929 m<sup>2</sup>).~~

**1014.2.4.2 Exit access.** Any rooms or suite of rooms, other than patient sleeping rooms, of more than 2,500 square feet (232 m<sup>2</sup>) shall have at least two exit access doors remotely located from each other.

**1014.2.4.3 One intervening room.** For rooms other than patient sleeping rooms, suites of rooms are permitted to have one intervening room if the travel distance within the suite is not greater than 100 feet (30,480 mm).

**1014.2.4.4 Two intervening rooms.** For rooms other than patient sleeping rooms located within a suite, exit access travel from within the suite shall be permitted through two intervening rooms where the travel distance to the exit access door is not greater than 50 feet (15,240 mm).

**1014.2.5 Travel distance.** The travel distance between any point in a Group I-2 Occupancy patient room and an exit access door in that room shall not exceed 50 feet (15,240 mm).

**1014.2.6 Separation.** Suites in Group I-2 Occupancies shall be separated from other portions of the building by a smoke partition complying with Section 710.

**1015.1 Exits or exit access doorways from spaces.** Two exits or exit access doorways from any space shall be provided where one of the following conditions exists:

1. The occupant load of the space exceeds one of the values in Table 1015.1.

**EXCEPTION:** One means of egress is permitted within and from dwelling units with a maximum occupant load of 20 where the dwelling unit is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

2. The common path of egress travel exceeds one of the limitations of Section 1014.3.

3. Where required by Sections 1015.3, 1015.4, 1015.5, 1015.6 or 1015.6.1.

**EXCEPTION:** Group I-2 Occupancies shall comply with Section 1014.2.2.

**TABLE 1015.1  
SPACES WITH ONE MEANS OF EGRESS**

OCCUPANCY	MAXIMUM OCCUPANT LOAD
A, B, E <sup>a</sup> , F, M, U	49
H-1, H-2, H-3	3
H-4, H-5, I-1, I-3, I-4, R	10
S	29

a. Day care maximum occupant load is 10.

**1015.1.1 Three or more exits or exit access doorways.** Three exits or exit access doorways shall be provided from any space with an occupant load of 501-1,000. Four exits or exit access doorways shall be provided from any space with an occupant load greater than 1,000.

**1019.1 Exits from stories.** All spaces within each story shall have access to the minimum number of exits as specified in Table 1019.1 based on the occupant load of the story, except as modified in Section 1019.2. For the purposes of this chapter, occupied roofs shall be provided with exits as required

for stories. The required number of exits from any story, including basements, shall be maintained until arrival at grade or the public way.

**EXCEPTION:** One means of egress is permitted within and from dwelling units with a maximum occupant load of 20 where the dwelling unit is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

**TABLE 1019.1  
MINIMUM NUMBER OF EXITS FOR OCCUPANT LOAD**

OCCUPANT LOAD (persons per story)	MINIMUM NUMBER OF EXITS (per story)
1-500	2
501-1,000	3
More than 1,000	4

**1019.2 Buildings with one exit.** Only one exit shall be required in buildings as specified below:

1. Buildings meeting the limitations of Table 1019.2, provided the building has not more than one level below the first story above grade plane.

2. Buildings of Group R-3 Occupancy.

3. Single level buildings with occupied spaces at the level of exit discharge provided each space complies with Section 1015.1 as a space with one exit or exit access doorway.

**TABLE 1019.2  
BUILDINGS WITH ONE EXIT**

OCCUPANCY	MAXIMUM HEIGHT OF BUILDING ABOVE GRADE PLANE	MAXIMUM OCCUPANTS (OR DWELLING UNITS) PER FLOOR AND TRAVEL DISTANCE
A, B <sup>a</sup> , E <sup>a</sup> , F, M, U	1 Story	49 occupants and 75-foot travel distance
H-2, H-3	1 Story	3 occupants and 25-foot travel distance
H-4, H-5, I, R	1 Story	10 occupants and 75-foot travel distance
S <sup>a</sup>	1 Story	29 occupants and 100-foot travel distance
B <sup>b</sup> , F, M, S <sup>a</sup>	2 Stories	30 occupants and 75-foot travel distance
R-2	2 Stories <sup>a</sup>	4 dwelling units and 50-foot travel distance

For SI: 1 foot = 304.8 mm.

a. For the required number of exits for open parking structures, see Section 1019.1.1.

b. For the required number of exits for air traffic control towers, see Section 412.1.



e. Buildings classified as Group R-2 equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and provided with emergency escape and rescue openings in accordance with Section 1026 shall have a maximum height of three stories above grade plane.

d. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 with an occupancy in Group B shall have a maximum travel distance of 100 feet.

e. Day care maximum occupant load is 10.)

**1008.1.9.3 Locks and latches.** Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.

2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M and S, and in places of religious worship, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:

2.1 The locking device is readily distinguishable as locked;

2.2 A readily visible sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and

2.3 The use of the key-operated locking device is revocable by the building official for due cause.

3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.

4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or a tool.

5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.

6. Approved, listed locks without delayed egress shall be permitted in Group R-2 boarding homes licensed by Washington state, provided that:

6.1. The clinical needs of one or more patients require specialized security measures for their safety.

6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.

6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.

6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

**1008.1.9.6 Special locking arrangements in Group I-2.** Approved locks shall be permitted in a Group I-2 Occupancy where the clinical needs of persons receiving care require such locking. Locks shall be permitted in such occupancies where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed

in accordance with Section 907, provided that the doors unlock in accordance with Items 1 through 6 below.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locks shall have the capability of being unlocked by a signal from the fire command center, a nursing station or other approved location.

4. The procedures for the operation(s) of the unlocking system shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the International Fire Code.

5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

6. Emergency lighting shall be provided at the door.

**EXCEPTION:** Items 1, 2, 3, and 5 shall not apply to doors to areas where persons which because of clinical needs require restraint or containment as part of the function of a Group I-2 mental hospital provided that all clinical staff shall have the keys, codes or other means necessary to operate the locking devices.

**1009.15 Stairways in individual dwelling units.** Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.

**1010.1 Scope.** The provisions of this section shall apply to ramps used as a component of a means of egress.

**EXCEPTIONS:**

1. Other than ramps that are part of the accessible routes providing access in accordance with Sections 1108.2 through 1108.2.4 and 1108.2.6, ramped aisles within assembly rooms or spaces shall conform with the provisions in Section 1028.11.
2. Curb ramps shall comply with ICC A117.1.
3. Vehicle ramps in parking garages for pedestrian exit access shall not be required to comply with Sections 1010.3 through 1010.9 when they are not an accessible route serving accessible parking spaces or other required accessible elements.
4. In a parking garage where one accessible means of egress serving accessible parking spaces or other accessible elements is provided, a second accessible means of egress serving that area may include a vehicle ramp that does not comply with Sections 1010.4 through 1010.8.

**1014.2.2 Group I-2. General.** Habitable spaces and suites in Group I-2 Occupancies are permitted to comply with this Section 1014.2.2.

**1014.2.2.1 Exit access doors.** Habitable spaces and suites in Group I-2 Occupancies shall have an exit access door leading directly to a corridor.

**EXCEPTION:** Rooms with exit doors opening directly to the outside at ground level.

**1014.2.2.2 Exit access through suites.** Exit access from areas not classified as a Group I-2 Occupancy suite shall not pass through a suite. In a suite required to have more than one exit, one exit access may pass through an adjacent suite if all other requirements of Section 1014.2 are satisfied.

**1014.2.2.3 Separation.** Suites in Group I-2 Occupancies shall be separated from other portions of the building by a smoke partition complying with Section 711. Partitions within suites are not required to be smoke-resistant or fire-resistance-rated unless required by another section of this Code.

**1014.2.2.4 Suites containing patient sleeping areas.** Patient sleeping areas in Group I-2 Occupancies shall be permitted to be divided into suites with one intervening room if one of the following conditions is met:

1. The intervening room within the suite is not used as an exit access for more than eight patient beds.
2. The arrangement of the suite allows for direct and constant visual supervision by nursing personnel.

**1014.2.2.4.1 Area.** Suites of sleeping rooms shall not exceed 5,000 square feet (465 m<sup>2</sup>).

**1014.2.2.4.2 Exit access.** Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 square feet (93 m<sup>2</sup>) shall have at least two exit access doors located in accordance with Section 1015.2.

**1014.2.2.4.3 Travel distance.** The travel distance between any point in a suite of sleeping rooms and an exit access door of that suite shall not exceed 100 feet (30,480 mm). The travel distance between any point in a Group I-2 Occupancy patient sleeping room and an exit access door in that room shall not exceed 50 feet (15,240 mm).

**1014.2.2.5 Suites not containing patient sleeping areas.** Areas other than patient sleeping areas in Group I-2 Occupancies shall be permitted to be divided into suites that comply with Sections 1014.2.2.5.1 through 1014.2.2.5.4.

**1014.2.2.5.1 Area.** Suites of rooms, other than patient sleeping rooms, shall not exceed 10,000 square feet (929 m<sup>2</sup>).

**1014.2.2.5.2 Exit access.** Any room or suite of rooms, other than patient sleeping rooms, of more than 2,500 square feet (232 m<sup>2</sup>) shall have at least two exit access doors located in accordance with Section 1015.2.

**1014.2.2.5.3 One intervening room.** For rooms other than patient sleeping rooms, suites of rooms are permitted to have one intervening room if the travel distance within the suite to the exit access door is not greater than 100 feet (30,480 mm).

**1014.2.2.5.4 Two intervening rooms.** For rooms other than patient sleeping rooms located within a suite, exit access travel from within the suite shall be permitted through two intervening rooms where the travel distance to the exit access door is not greater than 50 feet (15,240 mm).

**1018.5 Air movement in corridors.** Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.

**EXCEPTIONS:**

1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted, provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.

2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.

3. Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.

4. Incidental air movement from pressurized rooms within health care facilities, provided that a corridor is not the primary source of supply or return to the room.

5. Where such air is part of an engineered smoke control system.

6. Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units subject to the following:

6.1 The air supplied to the corridor is one hundred percent outside air; and

6.2 The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and

6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or

6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

**1018.6 Corridor continuity.** Fire-resistance-rated corridors shall be continuous from the point of entry to an exit, and shall not be interrupted by intervening rooms.

**EXCEPTIONS:**

1. Foyers, lobbies or reception rooms constructed as required for corridors shall not be construed as intervening rooms.

2. In Group R-2 boarding homes and residential treatment facilities licensed by Washington state, seating areas shall be allowed to be open to the corridor provided:

2.1 The seating area is constructed as required for the corridor;

2.2 The floor is separated into at least two compartments complying with Section 407.4;

2.3 Each individual seating area does not exceed 150 square feet, excluding the corridor width;

2.4 The combined total space of seating areas per compartment does not exceed 300 square feet, excluding the corridor width;

2.5 Combustible furnishings located within the seating area shall be in accordance with the International Fire Code Section 805; and

2.6 Emergency means of egress lighting is provided as required by Section 1006 to illuminate the area.

## WSR 11-06-034

### EMERGENCY RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed February 25, 2011, 3:06 p.m., effective February 26, 2011]

Effective Date of Rule: February 26, 2011.

Purpose: The division of child support (DCS) is filing this sixth emergency rule in order to maintain the status quo as we await the rule-making hearing for the adoption of final rules. **THESE RULES ARE EXACTLY THE SAME AS THE PRIOR EMERGENCY RULES ADOPTED AS WSR 10-22-049 AND EFFEC-**

**TIVE ON OCTOBER 29, 2010.** This sixth set of emergency rules takes effect on February 26, 2011, and is identical in every respect to the prior emergency rules filed as WSR 10-22-049. **See below for more information.** **NOTE:** As DCS files this emergency rule-making order, DCS is filing the CR-102, Notice of proposed rule making, to schedule the public rule-making hearing on the final rules. While the sixth emergency rules are exactly the same as the fifth emergency rules, DCS encourages all interested parties to review the rules proposed in the CR-102, because *the proposed final rules differ from the emergency rules in several respects.*

**BASIS FOR ADOPTION OF EMERGENCY RULES:** ESHB 1794 (chapter 84, Laws of 2009) and SHB 1845 (chapter 476, Laws of 2009) both had an effective date of October 1, 2009. Although DCS has begun the regular rule-making process to adopt rules under this bill, we were unable to complete the adoption process by the effective date. DCS continues the regular rule-making process and at the same time it files these emergency rules, DCS is filing the CR-102, Notice of proposed rule making, to schedule the public rule-making hearing.

In the 2009 legislative session, the Washington state legislature adopted ESHB 1794 (chapter 84, Laws of 2009), which makes changes to chapter 26.19 RCW, the Washington state child support schedule, based on recommendations of the 2007 child support schedule workgroup which was convened under 2SHB 1009 (chapter 313, Laws of 2007) and SHB 1845 (chapter 476, Laws of 2009), regarding medical support obligations in child support orders. Both of these bills had an effective date of October 1, 2009.

DCS filed emergency rules under WSR 09-20-030 in order to implement this legislation by October 1, 2009. DCS filed the second emergency rules, identical to the first, under WSR 10-04-037 with an effective date of January 28, 2010. The third emergency was filed under WSR 10-12-039, and was effective on May 26, 2010. The fourth emergency was filed under WSR 10-14-065, and was effective on July 1, 2010; that rule-making order removed certain sections (WAC 388-14A-5002, 388-14A-5003, 388-14A-5004, 388-14A-5005 and 388-14A-5006) in order to amend DCS rules regarding the distribution of collections from federal tax refund offset, and those sections were amended by emergency rule adopted under WSR 10-14-063, effective July 1, 2010. DCS again filed emergency rules under WSR 10-22-049; those rules were effective on October 29, 2010.

For a list of section numbers and titles in this sixth emergency filing, see Citation of existing rules below.

**STATUS OF ADOPTION OF FINAL RULES:** DCS began the regular rule-making process by filing a CR-101, Preproposal notice of inquiry, for each of the bills: The CR-101 for ESHB 1794 was filed as WSR 09-10-046, and the CR-101 for SHB 1845 was filed as WSR 09-14-075. Because both of the bills impact the establishment of child support obligations, DCS determined that it was necessary to adopt just one set of rules which covers both bills instead of two separate rule-making projects.

At the same time we file this CR-103E, DCS is filing the CR-102, Notice of proposed rule making. When published, the CR-102 will set the date for the public rule-making hearing on the final rules. DCS has done a significant amount of

redrafting and revising the rules from the form in which they were first proposed, after consulting with DCS staff, stakeholders and other partners. Between the filing of the CR-102 and the public rule-making hearing, DCS will again work with DCS staff, stakeholders and other partners to incorporate more comments and feedback.

While the sixth emergency rules are exactly the same as the fifth emergency rules, DCS encourages all interested parties to review the rules proposed in the CR-102, because the proposed rules differ from the emergency rules in several respects. The proposed rules will be published with the CR-102, and will be available on the DSHS rule-making web site. Interested parties may request a copy of the proposed rules by contacting Nancy Koptur, DCS rules coordinator, at [nkoptur@dshs.wa.gov](mailto:nkoptur@dshs.wa.gov) or by calling her at (360) 664-5065.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement?, 388-14A-2035 Do I assign my rights to support when I receive public assistance?, 388-14A-2036 What does assigning my rights to support mean?, 388-14A-3140 What can happen at a hearing on a support establishment notice?, 388-14A-3205 How does DCS calculate my income?, 388-14A-3310 The division of child support serves a notice of support owed to establish a fixed dollar amount under an existing child support order, 388-14A-3312 The division of child support serves a notice of support owed for ~~((unreimbursed))~~ medical ~~((expenses))~~ support to establish a fixed dollar amount owed under a child support order, 388-14A-3315 When DCS serves a notice of support debt ~~((or))~~, notice of support owed ~~((or))~~, notice of support owed for ~~((unreimbursed))~~ medical ~~((expenses))~~ support, we notify the other party to the child support order, 388-14A-3317 What is an annual review of a support order under RCW 26.23.110?, 388-14A-3318 What is an annual review of a notice of support owed under WAC 388-14A-3312?, 388-14A-3320 What happens at a hearing on a notice of support owed?, 388-14A-3400 Are there limitations on how much of my income is available for child support?, 388-14A-4100 How does the division of child support enforce my obligation to provide health insurance for my children?, 388-14A-4110 If my support order requires me to provide ~~((health insurance))~~ medical support for my children, what do I have to do?, 388-14A-4112 When does the division of child support enforce a custodial parent's obligation to provide ~~((health insurance coverage))~~ medical support?, 388-14A-4115 Can my support order reduce my support obligation if I pay for health insurance?, 388-14A-4120 DCS uses the National Medical Support Notice to enforce an obligation to provide health insurance coverage, 388-14A-4165 What happens when a noncustodial parent does not earn enough to pay child support plus the health insurance premium?, 388-14A-4175 ~~((Is an employer))~~ Who is required to notify the division of child support when insurance coverage for the children ends?, 388-14A-4180 When must the division of child support communicate with the DSHS health and recovery services administration?, 388-14A-5007 If the paying parent has more than one case, can DCS apply support money to only one specific case?, 388-14A-6300 Duty of the administrative law judge in a hearing to determine the amount of a support obligation and 388-14A-8130 How does DCS complete the

WSCSS worksheets when setting a joint child support obligation when the parents of a child in foster care are married and residing together?; and new section WAC 388-14A-4111 When may DCS decline a request to enforce a medical support obligation?

Statutory Authority for Adoption: RCW 26.09.105(17), 26.18.170(19), 26.23.050(8), 26.23.110(14), 34.05.020, 34.05.060, 34.05.220, 74.08.090, 74.20.040, 74.20A.055 (9) and (11).

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

Reasons for this Finding: See Purpose above.

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 23, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 23, 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 23, Repealed 0.

Date Adopted: February 25, 2011.

Katherine I. Vasquez  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 11-07 issue of the Register.

**WSR 11-06-040**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medicaid Purchasing Administration)

[Filed February 28, 2011, 11:54 a.m., effective March 1, 2011]

Effective Date of Rule: March 1, 2011.

Purpose: The legislature passed ESHB 1086, which reduces funding for maternity support services and mandates MPA to prioritize evidence-based practices for delivery of maternity support services and to target funding for maternity support services by leveraging local public funding for those services. In addition, upon order of the governor, the MPA must reduce its budget expenditures for the current fiscal year ending June 30, 2011, by 6.3%.

Citation of Existing Rules Affected by this Order: Amending WAC 388-533-0300, 388-533-0320, 388-533-0325, 388-533-0370, and 388-533-0380.

Statutory Authority for Adoption: Chapter 5, Laws of 2011, ESHB 1086.

Other Authority: RCW 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: See Purpose above.

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 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 5, Repealed 0.

Date Adopted: February 28, 2011.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 10-12-011, filed 5/21/10, effective 6/21/10)

**WAC 388-533-0300 Services under First Steps.** (1)

Under the 1989 Maternity Care Access Act, and RCW 74.09.760 through 74.09.910, the department established First Steps to provide access to services for eligible women and their infants.

(2) The rules for the:

(a) Maternity support services (MSS) component of First Steps are found in WAC 388-533-0310 through 388-533-0345.

(b) Infant case management (ICM) component of First Steps are found in WAC 388-533-0360 through 388-533-0386.

(c) Childbirth education (CBE) component of First Steps are found in WAC 388-533-0390.

(3) Other services under First Steps include:

(a) Medical services, including full medical coverage, prenatal care, delivery, post-pregnancy follow-up, (~~dental vision~~) and twelve months family planning services post-pregnancy;

(b) Ancillary services, including but not limited to, expedited medical eligibility determination(~~(-case finding and outreach)~~); and

(c) Alcohol and drug assessment and treatment services for pregnant women available statewide and administered by the division of behavioral health and recovery (see WAC 388-533-0701).

AMENDATORY SECTION (Amending WSR 10-12-011, filed 5/21/10, effective 6/21/10)

**WAC 388-533-0320 Maternity support services—Client eligibility.** (1) To receive maternity support services (MSS), a client must:

(a) Be covered under one of the following medical assistance programs:

- (i) Categorically needy program (CNP);
- (ii) CNP—Children's health insurance program;
- (iii) Medically needy program (MNP); or
- (iv) A pregnancy medical program as described in WAC 388-462-0015.

(b) Be within the eligibility period of a maternity cycle as defined in WAC 388-533-0315; and

(c) Meet any other eligibility criteria as determined by the department and published in the department's current billing instructions and/or numbered memoranda.

(2) Clients who meet the eligibility criteria in this section may receive:

(a) An in-person screening by a provider who meets the criteria established in WAC 388-533-0325. Clients are screened for risk factors related to issues that may impact their birth outcomes.

(b) Up to the maximum number of MSS units of service allowed per client as determined by the department and published in the department's current billing instructions and/or numbered memoranda. The department may determine the maximum number of units allowed per client when directed by the legislature to achieve targeted expenditure levels for payment of maternity support services for any specific biennium.

(3) Clients meeting the eligibility criteria in this section who are enrolled in a department-contracted managed care plan, are eligible for MSS outside their plan.

(4) See chapter 388-534 WAC for clients eligible for coverage under the early periodic screening, diagnosis and treatment (EPSDT) program.

(5) Clients receiving MSS before ~~((July 1, 2009))~~ March 1, 2011, are subject to the transition plan as determined and published by the department in numbered memoranda.

(6) Clients who do not agree with a department decision regarding eligibility for MSS have a right to a fair hearing under chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 10-12-011, filed 5/21/10, effective 6/21/10)

**WAC 388-533-0325 Maternity support services—Provider requirements.** (1) To be paid for providing maternity support services (MSS) and infant case management (ICM) services to eligible clients, an agency or entity must:

(a) Be currently approved as an MSS/ICM provider by the department of ~~((health (DOH)))~~ social and health services (department);

(b) Be enrolled as an eligible provider with the ~~((department of social and health services' (department's) health and recovery services administration (HRSA)))~~ department's medicaid purchasing administration (see WAC 388-502-0010);

(c) Ensure that staff providing services meet the minimum regulatory and educational qualifications for the scope of services provided; and

(d) Meet the requirements in this chapter, chapter 388-502 WAC and the department's current published billing instructions and numbered memoranda.

(2) An individual or service organization that has a written agreement with an agency or entity that meets the requirements in subsection (1) of this section may also provide MSS and ICM services to eligible clients.

(a) The department requires the agency or entity to:

(i) Keep a copy of the written agreement on file;

(ii) Ensure that an individual or service organization staff member providing MSS/ICM services meets the minimum regulatory and educational qualifications required of an MSS/ICM provider;

(iii) Assure that the individual or service organization provides MSS/ICM services under the requirements of this chapter; and

(iv) Maintain professional, financial, and administrative responsibility for the individual or service organization.

(b) The agency or entity is responsible to:

(i) Bill for services using the agency's or entity's assigned provider number; and

(ii) Reimburse the individual or service organization for MSS/ICM services provided under the written agreement.

AMENDATORY SECTION (Amending WSR 10-12-010, filed 5/21/10, effective 6/21/10)

**WAC 388-533-0370 Infant case management—Eligibility.** (1) To receive infant case management (ICM), an infant must:

(a) Be covered under one of the medical assistance programs listed in WAC 388-533-0320(1);

(b) Meet the age requirement for ICM which is the day after the maternity cycle (defined in WAC 388-533-0315) ends, through the last day of the month of the infant's first birthday;

(c) Reside with at least one parent (see WAC 388-533-0315 for definition of parent);

(d) Have a parent(s) who needs assistance in accessing medical, social, educational and/or other services to meet the infant's basic health and safety needs; and

(e) Not be receiving any case management services funded through Title XIX medicaid that duplicate ICM services.

(2) Infants who meet the eligibility criteria in subsection (1) of this section, and the infant's parent(s), are eligible to receive:

(a) An in-person screening by a provider who meets the criteria established in WAC 388-533-0375. Infants and their parent(s) are screened for risk factors related to issues that may impact the infant's welfare, health, and/or safety.

(b) Up to the maximum number of ICM units of service allowed per client as determined by the department and published in the department's current billing instructions and/or numbered memoranda. The department may determine the maximum number of units allowed per client when directed

by the legislature to achieve targeted expenditure levels for payment in any specific biennium.

(3) Clients meeting the eligibility criteria in subsection (1) of this section who are enrolled in a department-contracted managed care plan are eligible for ICM services outside their plan.

(4) See chapter 388-534 WAC for clients eligible for coverage under the early periodic screening, diagnosis and treatment (EPSDT) program.

(5) Clients receiving ICM before (~~(July 1, 2009)~~) March 1, 2011, are subject to the transition plan as determined and published by the department in numbered memoranda.

(6) Clients who do not agree with a department decision regarding eligibility for ICM have a right to a fair hearing under chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 10-12-010, filed 5/21/10, effective 6/21/10)

**WAC 388-533-0380 Infant case management—Covered services.** (1) The department covers infant case management (ICM) services subject to the restrictions and limitations in this section and other applicable WAC.

(2) Covered services include:

(a) An initial in-person screening for ICM services which includes (~~(an assessment)~~) identification of risk factors, and the development of an individualized care plan;

(b) Case management services and care coordination;

(c) Linking and referring the infant and parent(s) to other services or resources;

(d) Advocating for the infant and parent(s);

(e) Follow-up contact(s) with the parent(s) to ensure the care plan continues to meet the needs of the infant and parent(s); and

(f) Additional services as determined and published in the maternity support services/infant case management (MSS/ICM) billing instructions.

(3) The department pays for covered ICM services according to WAC 388-533-0386.

**WSR 11-06-054**

**RESCISSION OF EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed March 1, 2011, 12:25 p.m.]

The economic services administration requests the rescission of the emergency rule-making order filed as WSR 11-04-062 on January 27, 2011, effective March 1, 2011.

Katherine I. Vasquez  
Rules Coordinator

**WSR 11-06-053**

**RESCISSION OF EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**  
(Medicaid Purchasing Administration)

[Filed March 1, 2011, 12:24 p.m.]

The medicaid purchasing administration requests the rescission of the emergency rule-making order filed as WSR 11-05-071 on February 14, 2011.

Katherine I. Vasquez  
Rules Coordinator