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**STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT**

DEPARTMENT OF LABOR AND  
INDUSTRIES OF THE STATE OF  
WASHINGTON

Plaintiff,

v.

FOWLER NAT D. AND MARY M.  
DBA FARM BOY DRIVE IN

Defendant.

NO. 20-2-02460-34

DECLARATION OF MICHAEL  
HALL IN SUPPORT OF  
DEPARTMENT'S MOTION FOR  
SECOND ORDER OF CONTEMPT

I, Michael Hall, declare under the penalty of perjury under the laws of the State of Washington that the following is true and correct:

1. I am over the age of eighteen and am otherwise competent to testify. I make these statements on personal knowledge and belief.
2. I am an Assistant Attorney General representing the Washington State Department of Labor & Industries (L&I).
3. Attached as Exhibit 1 is a true and correct copy of the Governor's Proclamation 20-25.10, which is available online at [https://www.governor.wa.gov/sites/default/files/proclamations/proc\\_20-25.10.pdf](https://www.governor.wa.gov/sites/default/files/proclamations/proc_20-25.10.pdf).
4. Attached as Exhibit 2 is a true and correct copy of the Governor's Proclamation 20-25.11, which is available online at: <https://www.governor.wa.gov/sites/default/files/20-25.11>,

1 [25.11%20-%20COVID-19%20Stay%20Safe-  
2 \[Stay%20Healthy%20%28tmp%29.pdf?utm\\\_medium=email&utm\\\_source=govdelivery.\]\(https://www.governor.wa.gov/sites/default/files/proclamations/proc\_20-25.12.pdf?utm\_medium=email&utm\_source=govdelivery\)](https://www.governor.wa.gov/sites/default/files/proclamations/proc_20-25.12.pdf?utm_medium=email&utm_source=govdelivery)

3 5. Attached as Exhibit 3 is a true and correct copy of the Governor's Proclamation 20-25.12,  
4 which is available online at:

5 6. [https://www.governor.wa.gov/sites/default/files/proclamations/proc\\_20-25.12.pdf](https://www.governor.wa.gov/sites/default/files/proclamations/proc_20-25.12.pdf).

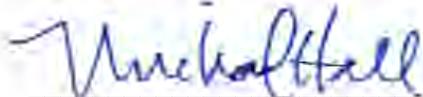
6 7. Attached as Exhibit 4 is a true and correct copy of the "Healthy Washington: Roadmap  
7 to Recovery" plan, which is available online at:

8 <https://www.governor.wa.gov/sites/default/files/HealthyWashington.pdf>.

9  
10 8. Attached hereto as Exhibit 5 is a true and correct copy of OTS-2313.4.

11 9. Attached hereto as Exhibit 6 is a true and correct copy of WSR 21-03-034.

12  
13 DATED this 13th day of January, 2021 in Burien, Washington by:

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18 MICHAEL HALL  
19 Assistant Attorney General  
20 WSBA No. 19871  
21 Attorneys for Department of Labor & Industries  
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24  
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# Exhibit 1

JAY INSLEE  
Governor



STATE OF WASHINGTON  
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • [www.governor.wa.gov](http://www.governor.wa.gov)

**PROCLAMATION BY THE GOVERNOR  
AMENDING PROCLAMATIONS 20-05 and 20-25, et seq.**

**20-25.10**

**“STAY SAFE – STAY HEALTHY”  
ROLLBACK OF COUNTY-BY-COUNTY PHASED REOPENING  
RESPONDING TO A COVID-19 OUTBREAK SURGE**

**WHEREAS**, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

**WHEREAS**, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued several amendatory proclamations, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

**WHEREAS**, I issued Proclamations 20-25, et seq., first entitled “*Stay Home – Stay Healthy*,” and later changed to “*Safe Start – Stay Healthy*” *County-By-County Phased Reopening*, found [here](#), in which I initially prohibited all people in Washington State from leaving their homes except under certain circumstances and then gradually relaxed those limitations based on county-by-county phasing established according to metrics provided by the Secretary of Health; and

**WHEREAS**, on July 2, 2020, due to the increased COVID-19 infection rates across the state, I ordered a freeze on all counties moving forward to a subsequent phase, and that freeze remains in place today; and

**WHEREAS**, on July 24, 2020, the Secretary of Health issued *Order of the Secretary of Health 20-03.1*, found [here](#), which, among other things, requires (with exceptions) the use of face coverings throughout the state; and

**WHEREAS**, despite this guidance, positive COVID-19-related cases and hospitalizations have been on a steady rise since early September; and, most alarmingly, since the latter part of October through the first two weeks of December, 2020, the number of COVID-19 cases continue to dramatically increase in Washington, and COVID-19-related hospitalizations have risen sharply,

putting our people, our health system, and our economy in as dangerous a position as we faced in March 2020, and have not significantly improved since; and

**WHEREAS**, there is evidence that the virus is spread through very small droplets called aerosols that are expelled from our mouths when we breathe, talk, sing, vocalize, cough, or sneeze, that these aerosols linger in air, and that a significant risk factor for spreading the virus is prolonged, close contact with an infected person indoors, especially in poorly ventilated spaces; and

**WHEREAS**, we know that several factors increase the risk for person-to-person COVID-19 transmission; such factors include (1) the more that people and groups interact, (2) the longer those interactions last, (3) the closer the contact between individuals, and (4) the denser the occupancy for indoor facilities; and

**WHEREAS**, the Washington State Department of Health and the Centers for Disease Control and Prevention have provided health and safety guidance to reduce the risk of transmission of COVID-19 generally and in specific sectors, environments, and settings, yet many individuals continue to disregard this guidance, and person-to-person interactions, including gatherings, have led to many infections and are a primary factor in the dangerous increase in COVID-19 cases and hospitalizations currently being experienced in Washington; and

**WHEREAS**, to reduce the severe increases in COVID-19 cases and hospitalizations we are currently facing, and to reduce the increase in deaths from COVID-19 that likely will follow, it is necessary to immediately modify prior prohibitions and guidance, and to issue further guidance as it is developed; and

**WHEREAS**, COVID-19, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, has broadly spread throughout Washington State and remains a significant health risk to all of our people, especially among our most vulnerable populations; and

**WHEREAS**, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

**WHEREAS**, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

**WHEREAS**, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people; and

**NOW, THEREFORE**, I, Jay Inslee, Governor of the state of Washington, as a result of the above noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim and order

that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect, and that, to help preserve and maintain life, health, property or the public peace pursuant to RCW 43.06.220(1)(h), Proclamations 20-25, et seq., renamed “Stay Safe – Stay Healthy” are amended to extend all of the prohibitions described herein until this order is amended or rescinded. Except as otherwise provided in this order, the *Safe Start Washington Phased Reopening County-by-County Plan* found [here](#), the *Order of the Secretary of Health 20-03.1*, issued on July 24, 2020, found [here](#), and all other provisions of Proclamations 20-25, et seq., shall remain in full force and effect.

**FURTHERMORE**, pursuant to RCW 43.06.220(3), the prohibitions set forth in Proclamations 20-25, et seq., continue to be modified, with amendments, as set forth below. Unless otherwise specifically noted, the modifications herein take effect immediately. All modifications to existing phased prohibitions set forth herein shall expire at 11:59 p.m., Monday, January 4, 2021, unless otherwise extended.

If an activity is not listed below, currently existing guidance shall continue to apply. If current guidance is more restrictive than the below listed restrictions, the most restrictive guidance shall apply. These below modifications do not apply to education (including but not limited to K-12, higher education, trade and vocational schools), childcare, recovery support groups, health care, and courts and judicial branch-related proceedings, all of which are exempt from the modifications and shall continue to follow current guidance. Terms used in this proclamation have the same definitions used in the *Safe Start Washington Phased Reopening County-by-County Plan*.

#### **Modifications to existing phased prohibitions:**

- 1. Indoor Social Gatherings** with people from outside your household are prohibited unless they (a) quarantine for fourteen days (14) prior to the social gathering; or (b) quarantine for seven (7) days prior to the social gathering and receive a negative COVID-19 test result no more than 48-hours prior to the gathering. A household is defined as individuals residing in the same domicile.
- 2. Outdoor Social Gatherings** shall be limited to five (5) people from outside your household.
- 3. Restaurants and Bars** are closed for indoor dine-in service. Outdoor dining and to-go service are permitted, provided that all outdoor dining must comply with the requirements of the Outdoor Dining Guidance [here](#). Table size for outdoor dining is limited to a maximum of five (5) people. These modified restaurant and bar restrictions go into effect at 12:01 a.m. Wednesday, November 18, 2020.
- 4. Fitness Facilities and Gyms** are closed for indoor operations. Outdoor fitness classes are permitted but are subject to and limited by the outdoor social gathering restriction listed above.
- 5. Bowling Centers** are closed for indoor service.
- 6. Miscellaneous Venues:** All retail activities and business meetings are prohibited. Only professional training and testing that cannot be performed remotely, as well as all court and judicial branch-related proceedings, are allowed. Occupancy in each meeting room is limited to 25 percent of indoor occupancy limits or 100 people, whichever is fewer.

- Miscellaneous venues include: convention/conference centers, designated meeting spaces in a hotel, events centers, fairgrounds, sporting arenas, nonprofit establishment, or a substantially similar venue.
7. **Movie Theaters** are closed for indoor service. Drive-in movie theaters are permitted and must continue to follow current drive-in movie theater guidance.
  8. **Museums/Zoos/Aquariums** are closed for indoor service.
  9. **Real Estate:** Open houses are prohibited.
  10. **Wedding and Funerals:** Ceremonies are limited to a total of no more than 30 people. Indoor singing during the ceremony is prohibited. Indoor receptions, wakes, or similar gatherings in conjunction with such ceremonies are prohibited. Singing during an outdoor ceremony is permitted, so long as participants wear face coverings and otherwise comply with the Weddings and Funerals [Guidance](#).
  11. **In-Store Retail** shall be limited to 25 percent of indoor occupancy limits, and common/congregate seating areas and indoor dining facilities such as food courts are closed.
  12. **Religious Services** are limited to 25 percent of indoor occupancy limits, with a recommended maximum of 200 people. Congregation members/attendees must wear facial coverings at all times, and indoor congregation singing is prohibited. No choir, band, or ensemble shall perform during the service, and congregation singing indoors is prohibited. Vocal or instrumental soloist performances are permitted with an accompanist so long as the performer wears a face covering. In the event the soloist is performing on a woodwind or brass instrument, the soloist may remove their face covering only during the performance. Both a soloist and the congregation are permitted to sing during outdoor services, so long as all singers wear face coverings while singing. Religious and Faith-Based Organization Guidance can be found [here](#).
  13. **Professional Services** are required to mandate that employees work from home when possible and close offices to the public if possible. Any office that must remain open must limit occupancy to 25 percent of indoor occupancy limits.
  14. **Personal Services** are limited to 25 percent of indoor occupancy limits.
    - Personal service providers include: cosmetologists, cosmetology testing, hairstylists, barbers, estheticians, master estheticians, manicurists, nail salon workers, electrologists, permanent makeup artists, tanning salons, and tattoo artists.
  15. **Long-term Care Facilities:** Outdoor visits are permitted. Indoor visits are prohibited, but individual exceptions for an essential support person or end-of-life care are permitted. These restrictions are also extended to the facilities in Proclamation 20-74, et seq. All other provisions of Proclamations 20-66, et seq., and 20-74, et seq., including all preliminary criteria to allow any visitors, remain in effect.
  16. **Youth and Adult Sporting Activities:** Indoor activities and all contests and games are prohibited. Outdoor activities shall be limited to intra-team practices only, with facial coverings required for all coaches, volunteers and athletes at all times.
  17. **Singing in Enclosed Spaces:** In all other circumstances not specifically addressed in this order, group singing, with or without face coverings, with members who are outside of a person's household is prohibited in enclosed, indoor spaces. Outdoor singing, while participants wear face coverings, is permitted, so long as the activity otherwise complies with guidance specific to that activity.

**FURTHERMORE**, in collaboration with the Washington State Department of Health, in furtherance of the physical, mental, and economic well-being of all Washingtonians, I will continue to analyze the data and epidemiological modeling and adjust guidance accordingly.

**ADDITIONALLY**, as a reminder, a travel advisory for all non-essential travel, issued on November 13, 2020, remains in effect. That advisory provides the following guidance: (1) Persons arriving in Washington from other states or countries, including returning Washington residents, should self-quarantine for 14 days after arrival. These persons should limit their interactions to their immediate household; and (2) Washingtonians are encouraged to stay home or in their region and avoid non-essential travel to other states or countries.

**ADDITIONALLY**, in furtherance of these prohibitions and for general awareness:

1. *Order of the Secretary of Health 20-03.1*, issued on July 24, 2020, is incorporated by reference, and may be amended as is necessary; and, all such amendments are also incorporated by reference.
2. Employers must comply with all conditions for operation required by the state Department of Labor & Industries, including interpretive guidance, regulations and rules such as [WAC 296-800-14035](#), and Department of Labor & Industries-administered statutes.
3. Everyone is required to cooperate with public health authorities in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of COVID-19 and with the implementation of infection control measures pursuant to State Board of Health rule in WAC 246-101-425.
4. All mandatory guidelines for businesses and activities, which remain in effect except as modified by this Proclamation and the *Order of the Secretary of Health 20-03.1*, may be found at the Governor's Office [website](#), [COVID-19 Resources and Information](#), and at [COVID-19 Reopening Guidance for Businesses and Workers](#).

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5). Further, if people fail to comply with the required social distancing and other protective measures while

engaging in this phased reopening, I may be forced to reinstate the prohibitions established in earlier proclamations.

Unless extended or amended, upon expiration or termination of this amendatory proclamation the provisions of Proclamation 20-25, et seq., will continue to be in effect until the state of emergency, issued on February 29, 2020, pursuant to Proclamation 20-05, is rescinded.

Signed and sealed with the official seal of the state of Washington on this 21st day of December, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

\_\_\_\_\_  
/s/  
Jay Inslee, Governor

BY THE GOVERNOR:

\_\_\_\_\_  
/s/  
Secretary of State

# Exhibit 2

JAY INSLEE  
Governor



STATE OF WASHINGTON  
OFFICE OF THE GOVERNOR  
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • [www.governor.wa.gov](http://www.governor.wa.gov)

**PROCLAMATION BY THE GOVERNOR  
AMENDING PROCLAMATIONS 20-05 and 20-25, et seq.**

**20-25.11**

**“STAY SAFE – STAY HEALTHY”  
ROLLBACK OF COUNTY-BY-COUNTY PHASED REOPENING  
RESPONDING TO A COVID-19 OUTBREAK SURGE**

**WHEREAS**, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

**WHEREAS**, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued several amendatory proclamations, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

**WHEREAS**, I issued Proclamations 20-25, et seq., first entitled “*Stay Home – Stay Healthy*,” and later changed to “*Safe Start – Stay Healthy*” *County-By-County Phased Reopening*, found [here](#), in which I initially prohibited all people in Washington State from leaving their homes except under certain circumstances and then gradually relaxed those limitations based on county-by-county phasing established according to metrics provided by the Secretary of Health; and

**WHEREAS**, on July 2, 2020, due to the increased COVID-19 infection rates across the state, I ordered a freeze on all counties moving forward to a subsequent phase, and that freeze remains in place today; and

**WHEREAS**, on July 24, 2020, the Secretary of Health issued *Order of the Secretary of Health 20-03.1*, found [here](#), which, among other things, requires (with exceptions) the use of face coverings throughout the state; and

**WHEREAS**, despite this guidance, positive COVID-19-related cases and hospitalizations have been on a steady rise since early September; and, most alarmingly, since the latter part of October through December, 2020, the number of COVID-19 cases continue to dramatically increase in Washington, and COVID-19-related hospitalizations have risen sharply, putting our people, our

health system, and our economy in as dangerous a position as we faced in March 2020, and have not significantly improved since; and

**WHEREAS**, there is evidence that the virus is spread through very small droplets called aerosols that are expelled from our mouths when we breathe, talk, sing, vocalize, cough, or sneeze, that these aerosols linger in air, and that a significant risk factor for spreading the virus is prolonged, close contact with an infected person indoors, especially in poorly ventilated spaces; and

**WHEREAS**, we know that several factors increase the risk for person-to-person COVID-19 transmission; such factors include (1) the more that people and groups interact, (2) the longer those interactions last, (3) the closer the contact between individuals, and (4) the denser the occupancy for indoor facilities; and

**WHEREAS**, the Washington State Department of Health and the Centers for Disease Control and Prevention have provided health and safety guidance to reduce the risk of transmission of COVID-19 generally and in specific sectors, environments, and settings, yet many individuals continue to disregard this guidance, and person-to-person interactions, including gatherings, have led to many infections and are a primary factor in the dangerous increase in COVID-19 cases and hospitalizations currently being experienced in Washington; and

**WHEREAS**, to reduce the severe increases in COVID-19 cases and hospitalizations we are currently facing, and to reduce the increase in deaths from COVID-19 that likely will follow, it is necessary to immediately modify prior prohibitions and guidance, and to issue further guidance as it is developed; and

**WHEREAS**, COVID-19, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, has broadly spread throughout Washington State and remains a significant health risk to all of our people, especially among our most vulnerable populations; and

**WHEREAS**, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

**WHEREAS**, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

**WHEREAS**, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people; and

**NOW, THEREFORE**, I, Jay Inslee, Governor of the state of Washington, as a result of the above noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim and order

that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect, and that, to help preserve and maintain life, health, property or the public peace pursuant to RCW 43.06.220(1)(h), Proclamations 20-25, et seq., renamed “Stay Safe – Stay Healthy” are amended to extend all of the prohibitions described herein until this order is amended or rescinded. Except as otherwise provided in this order, the *Safe Start Washington Phased Reopening County-by-County Plan* found [here](#), the *Order of the Secretary of Health 20-03.1*, issued on July 24, 2020, found [here](#), and all other provisions of Proclamations 20-25, et seq., shall remain in full force and effect.

**FURTHERMORE**, pursuant to RCW 43.06.220(3), the prohibitions set forth in Proclamations 20-25, et seq., continue to be modified, with amendments, as set forth below. Unless otherwise specifically noted, the modifications herein take effect immediately. All modifications to existing phased prohibitions set forth herein shall expire at 11:59 p.m., Monday, January 11, 2021, unless otherwise extended.

If an activity is not listed below, currently existing guidance shall continue to apply. If current guidance is more restrictive than the below listed restrictions, the most restrictive guidance shall apply. These below modifications do not apply to education (including but not limited to K-12, higher education, trade and vocational schools), childcare, recovery support groups, health care, and courts and judicial branch-related proceedings, all of which are exempt from the modifications and shall continue to follow current guidance. Terms used in this proclamation have the same definitions used in the *Safe Start Washington Phased Reopening County-by-County Plan*.

#### **Modifications to existing phased prohibitions:**

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- Miscellaneous venues include: convention/conference centers, designated meeting spaces in a hotel, events centers, fairgrounds, sporting arenas, nonprofit establishment, or a substantially similar venue.
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    - Personal service providers include: cosmetologists, cosmetology testing, hairstylists, barbers, estheticians, master estheticians, manicurists, nail salon workers, electrologists, permanent makeup artists, tanning salons, and tattoo artists.
  15. **Long-term Care Facilities:** Outdoor visits are permitted. Indoor visits are prohibited, but individual exceptions for an essential support person or end-of-life care are permitted. These restrictions are also extended to the facilities in Proclamation 20-74, et seq. All other provisions of Proclamations 20-66, et seq., and 20-74, et seq., including all preliminary criteria to allow any visitors, remain in effect.
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  17. **Singing in Enclosed Spaces:** In all other circumstances not specifically addressed in this order, group singing, with or without face coverings, with members who are outside of a person's household is prohibited in enclosed, indoor spaces. Outdoor singing, while participants wear face coverings, is permitted, so long as the activity otherwise complies with guidance specific to that activity.

**FURTHERMORE**, in collaboration with the Washington State Department of Health, in furtherance of the physical, mental, and economic well-being of all Washingtonians, I will continue to analyze the data and epidemiological modeling and adjust guidance accordingly.

**ADDITIONALLY**, as a reminder, a travel advisory for all non-essential travel, issued on November 13, 2020, remains in effect. That advisory provides the following guidance: (1) Persons arriving in Washington from other states or countries, including returning Washington residents, should self-quarantine for 14 days after arrival. These persons should limit their interactions to their immediate household; and (2) Washingtonians are encouraged to stay home or in their region and avoid non-essential travel to other states or countries.

**ADDITIONALLY**, in furtherance of these prohibitions and for general awareness:

1. *Order of the Secretary of Health 20-03.1*, issued on July 24, 2020, is incorporated by reference, and may be amended as is necessary; and, all such amendments are also incorporated by reference.
2. Employers must comply with all conditions for operation required by the state Department of Labor & Industries, including interpretive guidance, regulations and rules such as [WAC 296-800-14035](#), and Department of Labor & Industries-administered statutes.
3. Everyone is required to cooperate with public health authorities in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of COVID-19 and with the implementation of infection control measures pursuant to State Board of Health rule in WAC 246-101-425.
4. All mandatory guidelines for businesses and activities, which remain in effect except as modified by this Proclamation and the *Order of the Secretary of Health 20-03.1*, may be found at the Governor's Office [website](#), [COVID-19 Resources and Information](#), and at [COVID-19 Reopening Guidance for Businesses and Workers](#).

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5). Further, if people fail to comply with the required social distancing and other protective measures while

engaging in this phased reopening, I may be forced to reinstate the prohibitions established in earlier proclamations.

Unless extended or amended, upon expiration or termination of this amendatory proclamation the provisions of Proclamation 20-25, et seq., will continue to be in effect until the state of emergency, issued on February 29, 2020, pursuant to Proclamation 20-05, is rescinded.

Signed and sealed with the official seal of the state of Washington on this 30th day of December, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

\_\_\_\_\_  
/s/  
Jay Inslee, Governor

BY THE GOVERNOR:

\_\_\_\_\_  
/s/  
Secretary of State

# Exhibit 3



STATE OF WASHINGTON  
— OFFICE OF GOVERNOR JAY INSLEE —

**PROCLAMATION BY THE GOVERNOR  
AMENDING PROCLAMATIONS 20-05 and 20-25, et seq.**

**20-25.12**

**“HEALTHY WASHINGTON – ROADMAP TO RECOVERY”**

**WHEREAS**, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

**WHEREAS**, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued several amendatory proclamations, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

**WHEREAS**, I issued Proclamations 20-25, et seq., first entitled “Stay Home – Stay Healthy,” in which I initially prohibited all people in Washington State from leaving their homes except under certain circumstances, which I later amended to “Safe Start – Stay Healthy – County-By-County Phased Reopening,” gradually relaxing those limitations based on county-by-county phasing, and on November 16, 2020 again amended 20-25, et seq., to “Stay Safe – Stay Healthy – Rollback of County-By-County Phased Reopening Responding to a COVID-19 Outbreak Surge,” in response to a large surge of new cases of COVID-19, increased hospitalizations and ongoing COVID-19 related deaths in Washington State; and

**WHEREAS**, on July 2, 2020, due to the increased COVID-19 infection rates across the state, I ordered a freeze on all counties moving forward to a subsequent phase and on July 24, 2020, the Secretary of Health issued *Order of the Secretary of Health 20-03.1*, found [here](#), which, among other things, requires (with exceptions) the use of face coverings throughout the state; and

**WHEREAS**, there is evidence that the virus is spread through very small droplets called aerosols that are expelled from our mouths when we breathe, talk, sing, vocalize, cough, or sneeze, that these aerosols linger in air, and that a significant risk factor for spreading the virus is prolonged, close contact with an infected person indoors, especially in poorly ventilated spaces; and

**WHEREAS**, we know that several factors increase the risk for person-to-person COVID-19 transmission; such factors include (1) the more that people and groups interact, (2) the longer those

interactions last, (3) the closer the contact between individuals, and (4) the denser the occupancy for indoor facilities; and

**WHEREAS**, despite an increase in infections, hospitalizations, and deaths this fall and winter, Washington State has avoided overwhelming the state’s health care systems throughout this pandemic through rigorous safety and prevention measures, such as physical distancing and masking, as well as social and economic prohibitions; and

**WHEREAS**, a new and more contagious coronavirus variant, first identified in the United Kingdom and confirmed to now be in at least seven U.S. states and 33 countries, and a second new and more contagious coronavirus, first identified in South Africa, threaten to further strain our health care systems and therefore demand even more vigilance in our prevention measures; and

**WHEREAS**, now that two vaccines have been approved for use in the United States and efforts to vaccinate the most vulnerable populations are underway, it is appropriate to create a new roadmap to recovery that establishes the goal of safely easing some restrictions while also maintaining crucial hospital capacity, ensuring care for Washingtonians who need it, paving the way for economic recovery, and maintaining flexibility to quickly pivot to increase restrictions if needed; and

**WHEREAS**, achieving the goal that our health care systems are not overwhelmed during this pandemic is better and more appropriately served by shifting from a county-by-county approach to a regional approach that is substantially similar to existing emergency medical services regions; and

**WHEREAS**, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

**WHEREAS**, the Washington State Department of Health continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

**WHEREAS**, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people; and

**NOW, THEREFORE**, I, Jay Inslee, Governor of the state of Washington, as a result of the above noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim and order that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05, as amended, remains in effect, and that, to help preserve and maintain life, health, property or the public peace pursuant to RCW 43.06.220(1)(h), Proclamation 20-25, et seq., remains in full force and effect, but is hereby amended to be renamed “Healthy Washington – Roadmap To

Recovery.” This *Healthy Washington – Roadmap To Recovery*, found [here](#), extends all of the prohibitions described in Proclamations 20-25, et seq., except as amended herein.

**FURTHERMORE**, for purposes of the prohibitions contained in the *Healthy Washington – Roadmap To Recovery*, every county is part of a region, and all regions begin in Phase 1 as of the effective date of this order. Any activities not specifically addressed in the *Healthy Washington – Roadmap To Recovery* plan are subject to previously issued guidance related to that activity as it applies to the region’s current or subsequent phase.

**ADDITIONALLY**, in furtherance of these prohibitions and for general awareness:

1. *Order of the Secretary of Health 20-03.1*, issued on July 24, 2020, is incorporated by reference, and may be amended as is necessary; and, all such amendments are also incorporated by reference.
2. Employers must comply with all conditions for operation required by the state Department of Labor & Industries, including interpretive guidance, regulations and rules such as [WAC 296-800-14035](#), and Department of Labor & Industries-administered statutes.
3. Everyone is required to cooperate with public health authorities in the investigation of cases, suspected cases, outbreaks, and suspected outbreaks of COVID-19 and with the implementation of infection control measures pursuant to State Board of Health rule in WAC 246-101-425.
4. All mandatory guidelines for businesses and activities, which remain in effect except as modified by this Proclamation and the *Order of the Secretary of Health 20-03.1*, may be found at the Governor’s Office [website](#), [COVID-19 Resources and Information](#), and at [COVID-19 Reopening Guidance for Businesses and Workers](#).

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout state government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5). Further, if people fail to comply with the required social distancing and other protective measures while



# Exhibit 4



# Healthy Washington

## Roadmap to Recovery

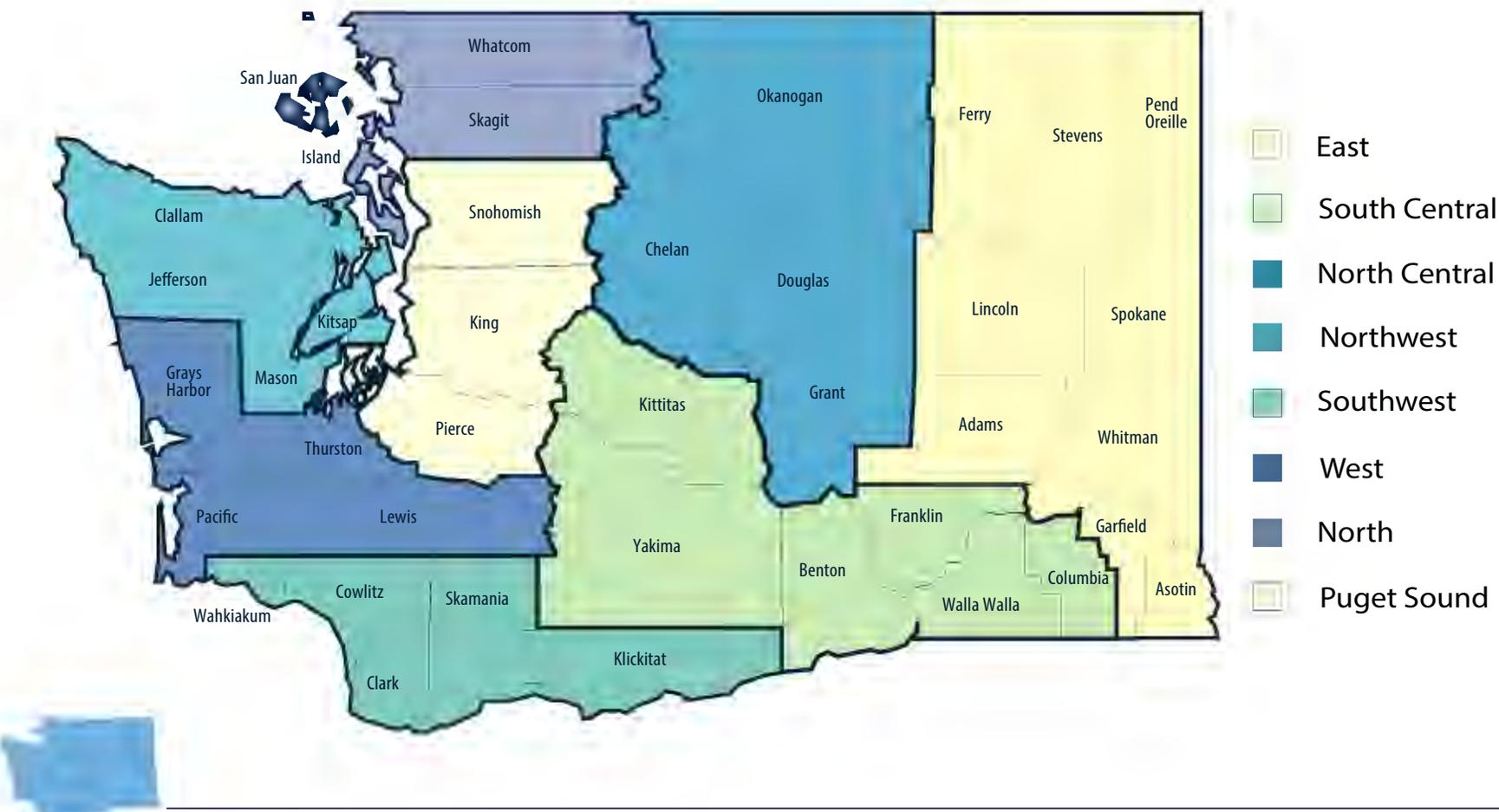
ISSUED BY THE OFFICE OF THE GOVERNOR | January 8, 2021



# Healthy Washington - Roadmap to Recovery

## Regional Approach

Effective January 11, 2020, the State of Washington is launching Healthy Washington – Roadmap to Recovery which will use a regional approach for its upcoming phased recovery plan. These regions are largely based on the Emergency Medical Services (EMS) regions used for evaluating healthcare services given the concern for COVID-19’s potential impact on the healthcare system. There will be eight regions in Washington that fall along county lines. Most regions in Washington have four or more counties. These regions are designed based on the available health care services in the area which has a strong connection to the metrics we will be using for COVID-19 hospitalizations, case data, and general mobility of individuals.



## Metrics

Starting on January 11, the regions outlined above will begin in Phase 1 of the Healthy Washington plan. The Washington State Department of Health (DOH) will notify the local health jurisdictions (LHJs) within a region once they have met the criteria to move into Phase 2.

On each Friday, DOH will update the Healthy Washington – Roadmap to Recovery dashboard with the latest data and region phase designations. During the first few weeks of January, DOH will post a report on the web site as the dashboard is built. A region may move into a new phase (forward or backward) if their metrics meet the criteria using the most recent complete data. This move will take effect the Monday after the dashboard is updated.

In the Roadmap to Recovery, there are four metrics in total – two metrics that measure community disease levels (i.e., trends in case rates, test positivity) and two that measure health system capacity (i.e., trends in COVID-19 hospital admission rates , ICU occupancy).

All four of these metrics must be met in order to move forward from Phase 1 to Phase 2.

- Decreasing trend in 14-day rate of new COVID-19 cases per 100K population;
- Decreasing trend in 14-day rate of new COVID-19 hospital admissions per 100K population;
- Average 7-day percent occupancy of ICU staffed beds less than 90%; and,
- 7-day percent positivity of COVID-19 tests less than 10%

In order to remain in Phase 2, a region must continue meeting at least three of these four metrics.

- Decreasing or flat trend in 14-day rate of new COVID-19 cases per 100K population;
- Decreasing or flat trend in 14-day rate of new COVID-19 hospital admissions per 100K population;
- Average 7-day percent occupancy of ICU staffed beds less than 90%; and,
- 7-day percent positivity of COVID-19 tests less than 10%

If a region in Phase 2 regresses and no longer meets any three or more of the metrics, the region – including all the counties within – will move back to Phase 1 on the following Monday.

In sum, a region that meets three or four of the Phase 2 metrics will remain in phase 2. A region that meets zero, or only one or two of the Phase 2 metrics will move back to phase 1.

Additional details about metrics data sources, calculations, and reporting appear in Appendix 1.

**While every effort has been made to advance clear and simple metrics, DOH and the LHJs within the regions reserve the right to move a region backward (e.g., from Phase 2 to Phase 1) outside of these planned metrics in situations where rapid COVID-19 spread requires more immediate action.**



## Phases

The State of Washington will begin the Healthy Washington – Roadmap to Recovery plan with only two phases while it continues to assess the evolving pandemic. Additional phases may be added in the future as the impact of continued vaccine distribution and other changes in COVID-19 response require.

Below are metrics and placement (as of January 8). Updated metrics will be available [here](#) through DOH.



Increasing or High



Flattening



Decreasing or Low

	Puget Sound	East	North	North Central	Northwest	South Central	Southwest	West
Phase as of 1/11/2021	Phase 1	Phase 1	Phase 1	Phase 1	Phase 1	Phase 1	Phase 1	Phase 1
Trend in 14-day rate of new COVID-19 cases per 100K population (1) (4) • 11/29–12/12/20 vs. 12/13–12/26/20	-27%	-28%	-31%	-24%	-25%	-4%	-27%	-1%
Trend in 14-day rate of new COVID-19 hospital admissions per 100K population (2) (4) • 12/6–12/19/20 vs. 12/20–1/2/21	+1%	+22%	+50%	-1%	+22%	+12%	-2%	+3%
Average 7-day percent occupancy of ICU staffed beds (2) (5) • 12/27–1/2/21	83%	69%	49%	76%	87%	93%	73%	86%
7-day percent positive of COVID-19 tests (1) (3) (6) • 12/13–12/19/20	7%	17%	4%	15%	6%	21%	16%	10%

(1) Data source: Washington Disease Reporting System

(2) Data source: WA HEALTH

(3) Data source: WA Department of Health negative labs dataset

(4) Decrease is -10% or more; flat is between 0% to less than -10%; and increase is more than 0%

(5) Low is less than 90%, high is 90% or more

(6) Low is less than 10%, high is 10% or more

# Healthy Washington - Roadmap to Recovery

Activities	Phase 1	Phase 2
<b>Social and At-Home Gathering Size — Indoor</b>	Prohibited	Max of 5 people from outside your household, limit 2 households
<b>Social and At-Home Gathering Size — Outdoor</b>	Max of 10 people from outside your household, limit 2 households	Max of 15 people from outside your household, limit 2 households
<b>Worship Services</b>	Indoor maximum 25% capacity	Indoor maximum 25% capacity
<b>Retail Stores</b> (includes farmers' markets, grocery and convenience stores, pharmacies)	Maximum 25% of capacity, encourage curbside pick-up	Maximum 25% of capacity, encourage curbside pick-up
<b>Professional Services</b>	Remote work strongly encouraged, 25% capacity otherwise.	Remote work strongly encouraged, 25% capacity otherwise.
<b>Personal Services</b>	Indoor maximum 25% capacity.	Indoor maximum 25% capacity.
<b>Eating and Drinking Establishments</b> (establishments only serving individuals 21+ and no food remain closed)	Indoor dining prohibited. Outdoor dining, 11 PM close, maximum 6 per table, limit 2 households per table	Indoor dining available 25% capacity, 11 PM close. Outdoor dining available, maximum 6 per table, limit 2 households per table
<b>Weddings and Funerals</b>	Ceremonies are limited to a total of no more than 30 people. Indoor receptions, wakes, or similar gatherings in conjunction with such ceremonies are prohibited.	Ceremonies and indoor receptions, wakes, or similar gatherings in conjunction with such ceremonies are permitted and must follow the appropriate venue requirements. If food or drinks are served, eating and drinking requirements apply. Dancing is prohibited.
<b>Indoor Recreation and Fitness Establishments</b> (includes gyms, fitness organizations, indoor recreational sports, indoor pools, indoor K-12 sports, indoor sports, indoor personal training, indoor dance, no-contact martial arts, gymnastics, climbing)	Low risk sports (including dance, no-contact martial arts, gymnastics, and climbing) permitted for practice and training only in stable groups of no more than 5 athletes. Appointment based fitness/training; 45-minute max session, no more than 1 customer/athlete per room or per 500/sq. ft. for large facilities.	Low and moderate risk sports competitions permitted (no tournaments). Fitness and training maximum 25% capacity.
<b>Outdoor Sports and Fitness Establishments</b> (outdoor fitness organizations, outdoor recreational sports, outdoor pools, outdoor parks and hiking trails, outdoor campsites, outdoor K-12 sports, outdoor sports, outdoor personal training, outdoor dance, outdoor motorsports)	Low and moderate risk sports permitted for practice and training only (no tournaments). Outdoor guided activities, hunting, fishing, motorsports, parks, camping, hiking, biking, running, snow sports, permitted.	Low, moderate, and high-risk sports competitions allowed (no tournaments), maximum 200 including spectators.
<b>Indoor Entertainment Establishments</b> (includes aquariums, indoor theaters, indoor arenas, indoor concert halls, indoor gardens, indoor museums, indoor bowling, indoor trampoline facilities, indoor cardrooms, indoor entertainment activities of any kind, indoor event spaces)	Private rentals/tours for individual households of no more than 6 people permitted. General admission prohibited.	Maximum 25% capacity. If food or drinks are served, eating and drinking requirements apply.
<b>Outdoor Entertainment Establishments</b> (includes zoos, outdoor gardens, outdoor aquariums, outdoor theaters, outdoor stadiums, outdoor event spaces, outdoor arenas, outdoor concert venues, rodeos)	Ticketed events only: Groups of 10, limit 2 households, timed ticketing required.	Groups of 15, limit 2 households per group, maximum 200 including spectators.

NOTE: Live entertainment is no longer prohibited but must follow guidance above for the appropriate venue. Long-term Care facilities, professional and collegiate sports remain governed by their current guidance/proclamations separate from this plan.

## Appendix One

### **Trend in 14-day rate of new COVID-19 cases per 100K population:**

The Trend in 14-day rate of new COVID-19 cases per 100K population metric describes whether virus transmission is increasing, decreasing, or staying the same (referred to here as “flattening”). A case is defined as an individual with a molecular or antigen test that is positive for COVID-19. Cases are assigned to the date a specimen was collected for testing, called the specimen collection date.

This metric is calculated by dividing the number of cases with a specimen collection date in a 14-day period by the population in the region and multiplying by 100,000. The percent change is calculated by subtracting the rate during the most recent time period from the preceding time period, dividing by the rate in the preceding time period, and multiplying by 100. The direction of the trend is defined by thresholds. The thresholds for this metric are:

- Decrease: -10% or more
- Flat: between 0% to less than -10%
- Increase: More than 0%

Data from WDRS are used for this metric. Metrics are calculated using the most recent complete data for two Sunday–Saturday weeks.

### **Trend in 14-day rate of new COVID-19 hospital admissions per 100K population:**

The Trend in 14-day rate of new COVID-19 hospital admissions per 100K population metric describes the impact on healthcare systems and whether the number of hospital admissions is increasing, decreasing, or flattening. A hospital admission is defined as an individual with confirmed COVID-19 infection who was admitted to the hospital. A hospital admission is assigned to the region of the hospital, not the region in which the individual lives. About 90% or more of Washington residents with COVID-19 in November 2020 were determined to reside in the same region as the hospital.

This metric is calculated by dividing the number of COVID-19 hospital admissions with an admission date in a 14-day period by the population in the region and multiplying by 100,000. The percent change is calculated by subtracting the rate during the most recent time period from the preceding time period, dividing by the rate in the preceding time period, and multiplying by 100. The direction of the trend is defined by thresholds. The thresholds for this metric are:

- Decrease: -10% or more
- Flat: between 0% to less than -10%
- Increase: More than 0%

Data from WA HEALTH are used for this metric. Metrics are calculated using the most recent complete data for two Sunday–Saturday weeks.



### **Average 7-day percent occupancy of ICU staffed beds:**

The Average 7-day percent occupancy of ICU staffed beds metric describes the capacity of the healthcare system to respond to the pandemic by indicating how many beds are currently occupied by critically ill patients and thus not available to treat additional patients who may need critical care. ICU occupancy is defined as the number of staffed adult ICU beds occupied in acute care hospitals. ICU occupancy includes all patients in the ICU, not only patients with COVID-19.

This metric is calculated by dividing the number of staffed adult ICU beds occupied each day by the total number of staffed adult ICU beds available and multiplying by 100. A 7-day average is calculated by averaging the percent over the most recent 7 days. The thresholds for this metric are:

- Low: Less than 90%
- High: 90% or more

Data from WA HEALTH are used for this metric. Metrics are calculated using the most recent complete data for a single Sunday–Saturday week.

### **7-day percent positivity of COVID-19 tests :**

The 7-day percent positive of COVID-19 tests metric describes how widespread infections are and if sufficient testing is occurring. A test is defined as a molecular test, including PCR, performed on an individual who has not previously tested positive for COVID-19 by molecular testing. Tests are assigned to the specimen collection date. Antigen and antibody tests are not included in this metric.

This metric is calculated by dividing the number of positive COVID-19 tests by the total number of tests performed in a 7-day period and multiplying by 100. The thresholds for this metric are:

- Low: Less than 10%
- High: 10% or more

Data from WDRS and the DOH negative lab dataset are used for this metric. Metrics are calculated using the most recent complete data for a single Sunday–Saturday week.



On a weekly basis, a color-coded status will be determined for each of the four indicators, charted in a table, and mapped accordingly. To determine the status, the most recent complete data will be used. Regions can advance to a higher phase if they meet all indicators.

Case Rates 14-day trend	
Decline (-10% or more)	Light Blue
Flat (0% change to -10%)	Medium Blue
Any Increase	Dark Blue

Hospital Admission Rates 14-day trend	
Decline (-10% or more)	Light Blue
Flat (0% change to -10%)	Medium Blue
Any Increase	Dark Blue

Average 7-day percent occupancy of ICU staffed beds	
Above 90%	Dark Blue
Below 90%	Light Blue

7-day percent positivity of COVID-19 tests	
Above 10%	Dark Blue
Below 10%	Light Blue

## Appendix Two

EMS Region	Counties
Puget Sound	King, Pierce, Snohomish
East	Adams, Asotin, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman
North	Island, San Juan, Skagit, Whatcom
North Central	Chelan, Douglas, Grant, Okanogan
Northwest	Clallam, Jefferson, Kitsap, Mason
South Central	Benton, Columbia, Franklin, Kittitas, Walla Walla, Yakima
Southwest	Clark, Cowlitz, Klickitat, Skamania, Wahkiakum
West	Grays Harbor, Lewis, Pacific, Thurston

# Exhibit 5

NEW SECTION

**WAC 296-800-14035 2019 Novel coronavirus prohibited business activities and compliance with conditions for operations.** (1) Where a business activity is prohibited by an emergency proclamation an employer shall not allow employees to perform work.

(2) Employers must comply with all conditions for operation required by emergency proclamation issued under RCW 43.06.220, including "Healthy Washington - Roadmap to Recovery" reopening requirements for all business and any industry specific requirements.

(3) An "emergency proclamation" means a proclamation that is in effect, including proclamation amendments and conditions, and issued under RCW 43.06.220 and is in effect at the time the emergency rule was adopted.

# Exhibit 6



# RULE-MAKING ORDER EMERGENCY RULE ONLY

## CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 12, 2021  
TIME: 4:44 PM

WSR 21-03-034

**Agency:** Department of Labor & Industries (L&I)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:**

The Department of Labor & Industries (L&I) is responding to the coronavirus disease 2019 (COVID-19) pandemic by amending WAC 296-800-14035 related to prohibited business activities and compliance with conditions for operations under emergency proclamations and their amendments issued under RCW 43.06.220.

Under the emergency rule:

- Employers must not allow employees to perform work where a business activity is prohibited by an emergency proclamation.
- Employers must comply with all conditions for operation required by emergency proclamation, including Safe Start phased reopening requirements for all business and any industry specific requirements.

**Citation of rules affected by this order:**

New:  
 Repealed:  
 Amended: WAC 296-800-14035  
 Suspended:

**Statutory authority for adoption:** RCW 49.17.010, RCW 49.17.040, RCW 49.17.050, and RCW 49.17.060

**Other authority:**

**EMERGENCY RULE**

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.
- 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:**

This emergency rulemaking supersedes the emergency rule adopted on December 31, 2020, filed as WSR 21-02-047, as conditions have changed due to a new Governor's Proclamation being in effect (Proclamation 20-25.12).

L&I is taking action to help prevent the spread of COVID-19 and respond to the Governor's Proclamations allowing a phased in reopening of businesses and establishing conditions for business operations consistent with the recommendations of medical and safety professionals as to how businesses may reopen without increasing the risk of COVID-19 spreading.

The initial March 23, 2020 Stay Home, Stay Healthy Proclamation 20-25 required residents to stay home unless they need to pursue an essential activity, closed all businesses except essential businesses, and banned all gatherings for social, spiritual and recreational purposes. The order built upon earlier orders closing schools and restricting larger gatherings. This was followed by Proclamation amendments adjusting the Stay Home Stay Healthy order and transitioning to a phased-in approach to re-opening Washington State, referred to as "Safe Start Washington". The "Safe Start" orders further build on these by continuing the Safe Start plan for county-by-county phased reopening where the subsequent "Stay Safe-Stay Healthy" orders rolled back the county-by-county phased reopening in response to a COVID-19 outbreak surge. The current "Healthy Washington – Roadmap to Recovery" order takes a regional approach to easing of the rolled back restrictions. The order identifies eight regions that are largely based on the existing emergency medical services regions used for evaluating

healthcare services given the concern for COVID-19's potential impact on the healthcare system. As the regions fall along county lines and are designed based on the available health care services in the area, there is a strong connection to the metrics for COVID-19 hospitalizations, case data, and general mobility of individuals.

The Governor's Proclamations and amendments create a systematic framework to reduce the spread of COVID from person-to-person interactions, ensuring continuity of critical functions and a phased-in reopening of businesses and activities such that the number of new cases is greatly reduced and medical facilities and providers are not overwhelmed by a spike in COVID-19 cases. Business operations and employee exposures are one component of the overall public health emergency response presented by COVID-19 and ensuring compliance with the Proclamation requirement helps to protect the safety and health of employees. In setting the phases and conditions for businesses, statewide and county level data was considered. In setting the conditions for businesses under the "Healthy Washington – Roadmap to Recovery" order, the increase in cases and hospitalizations, evidence of how the virus is spread, and factors that increase the risk for person-to-person COVID-19 transmission was considered. Under this order, the phases and conditions for business in each region are based on consideration of four metrics - two metrics that measure community disease levels and two that measure health system capacity.

The conditions of businesses reopening and operating in the Governor's orders are also consistent with the social/physical distancing and health and sanitation requirements of chapter 49.17 RCW and the Center for Disease Control and Prevention. Chapter 49.17 RCW and L&I rule require employers to provide a safe and healthy workplace free from recognized hazards, and an employer can be cited for a violation of the "safe place" rule where there are no specific rules to address the particular hazard. And, for COVID-19, lack of social distancing or failure to address symptomatic employees can be cited under the safe place standard. This emergency rule ensures clarity that restrictions and conditions on business under the emergency proclamations are also health and safety requirements under chapter 49.17 RCW and that employers can be subject to a citation and monetary penalties for violations.

This emergency rule is necessary for the preservation of public health, safety, and general welfare of all employees. Emergency rulemaking is necessary here because providing for a full notice and comment time period will allow businesses to reopen or reopen without following all conditions for re-opening, endangering employees and the public during the public comment time period. The Governor's proclamation has found that the hazards of the unnecessary spread of COVID-19 present an immediate threat to public health and safety. The Governor's Proclamation is currently in effect, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest and the Governor's order.

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted on the agency's own initiative:**

New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	0	Amended	1	Repealed	0

**Date Adopted:** January 12, 2021

**Name:** Joel Sacks

**Title:** Director

**Signature:**

