



# RULE-MAKING ORDER

## EMERGENCY RULE ONLY

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

**Agency:** State Board of Health

**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:** Chapter 246-101-017, reporting requirements for COVID-19. The Washington State Board of Health has adopted an emergency rule to create a new section, WAC 246-101-017, that designates Novel Coronavirus (SARS-CoV-2), also known as Coronavirus Disease 2019 (COVID-19) as a notifiable condition and requires health care providers, health care facilities, laboratories, and local health jurisdictions to report race, ethnicity, and other demographic data for cases of COVID-19.

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

New: WAC 246-101-017  
 Repealed: None  
 Amended: None  
 Suspended: None

**Statutory authority for adoption:** RCW 43.20.050(2)(f)

**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:** The immediate adoption of a rule designating COVID-19 as a notifiable condition, and requiring the reporting of race, ethnicity, and other demographic data by health care providers, health care facilities, laboratories, and local health jurisdictions related to cases of COVID-19 is necessary to comply with federal law and related guidance. Immediate adoption of this rule is necessary for the preservation of the public health, safety and general welfare of the State of Washington during this pandemic.

Public Law 116-136, § 18115(a), the Coronavirus Aid, Relief, and Economic Security (CARES) Act, requires “every laboratory that performs or analyzes a test that is intended to detect SARS-CoV-2 or to diagnose a possible case of COVID-19” to report the results from each such test to the Secretary of the U.S. Department of Health and Human Services (HHS). In addition, the statute authorizes the Secretary to prescribe the form and manner, and timing and frequency, of such reporting. On June 4, 2020, the Secretary of HHS finalized and published guidance on COVID-19 CARES Act reporting requirements. The guidance required that all data be reported through existing public health data reporting methods. Of these requirements, demographic information such as the patient’s age, race, ethnicity, and sex must be collected and reported to state or local public health departments using existing reporting channels in accordance with state law or policies.

**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>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>1</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>1</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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**Date Adopted:**

**Name:** Michelle A. Davis

**Title:** Executive Director, Washington State Board of Health

**Signature:**

Place signature here