

**WSR 07-22-016
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 26, 2007, 8:41 a.m., effective October 26, 2007, 8:41 a.m.]

Effective Date of Rule: Immediately.

Purpose: The department is creating WAC 388-828-9000, 388-828-9020, 388-828-9040, 388-828-9060, 388-828-9080, 388-828-9100, 388-828-9120 and 388-828-9140, to combine three family support programs into one individual family services program as directed by the legislature.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030].

Other Authority: Title 71A 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: Chapter 283, Laws of 2007 (2SSB 5467) directs the department to create the individual and family services programs for persons with developmental disabilities by July 1, 2007. The department of developmental disabilities (DDD) must incorporate rules for the algorithm used to determine a personal award amount into chapter 388-828 WAC.

The department is extending the emergency rule filed as WSR 07-14-072. An initial public notice was filed June 29, 2007, as WSR 07-14-081. Stakeholder work is being completed and the rules are expected to be formally proposed in February 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 8, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 0.

Date Adopted: October 23, 2007.

Stephanie E. Schiller
Rules Coordinator

Chapter 388-828 WAC

**INDIVIDUAL AND FAMILY
SERVICES ASSESSMENT**

NEW SECTION

WAC 388-828-9000 What is the individual and family services assessment? The individual and family services assessment is an algorithm in the DDD assessment that determines an award amount that you may receive if DDD has authorized you to receive individual and family services per chapter 388-832 WAC.

NEW SECTION

WAC 388-828-9020 What is the purpose of the individual and family services assessment? The purpose of the individual and family services assessment is to determine your individual and family services level and score using your assessed support levels from:

(1) The DDD protective supervision acuity scale (See WAC 388-828-5000 to WAC 388-828-5100);

(2) The DDD caregiver status acuity scale (See WAC 388-828-5120 to WAC 388-828-5360);

(3) The DDD behavioral acuity scale; (See WAC 388-828-5500 to WAC 388-828-5640)

(4) The DDD medical acuity scale; (See WAC 388-828-5660 to WAC 388-828-5700); and

(5) The DDD activities of daily living (ADL) acuity scale (See WAC 388-828-5380 to WAC 388-828-5480)

NEW SECTION

WAC 388-828-9040 How does DDD determine your individual and family services level? (1) DDD determines your individual and family services level using the following table:

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
0	None	1	None	1
0	None	1	Low	1
0	None	1	Medium	1
0	None	1	High	2
0	None	2 or 3	None	1
0	None	2 or 3	Low	1
0	None	2 or 3	Medium	2
0	None	2 or 3	High	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
0	Low	1	None	1
0	Low	1	Low	1
0	Low	1	Medium	1
0	Low	1	High	2
0	Low	2 or 3	None	1
0	Low	2 or 3	Low	1
0	Low	2 or 3	Medium	2
0	Low	2 or 3	High	2
0	Medium	1	None	1
0	Medium	1	Low	1
0	Medium	1	Medium	1
0	Medium	1	High	2
0	Medium	2 or 3	None	1
0	Medium	2 or 3	Low	1
0	Medium	2 or 3	Medium	2
0	Medium	2 or 3	High	2
0	High	1	None	1
0	High	1	Low	1
0	High	1	Medium	2
0	High	1	High	2
0	High	2 or 3	None	2
0	High	2 or 3	Low	2
0	High	2 or 3	Medium	2
0	High	2 or 3	High	3
0	Immediate	1	None	1
0	Immediate	1	Low	1
0	Immediate	1	Medium	2
0	Immediate	1	High	2
0	Immediate	2 or 3	None	2
0	Immediate	2 or 3	Low	2
0	Immediate	2 or 3	Medium	2
0	Immediate	2 or 3	High	3
1	None	1	None	1
1	None	1	Low	1
1	None	1	Medium	1
1	None	1	High	2
1	None	2 or 3	None	1
1	None	2 or 3	Low	1
1	None	2 or 3	Medium	2
1	None	2 or 3	High	3
1	Low	1	None	1
1	Low	1	Low	1
1	Low	1	Medium	1
1	Low	1	High	2
1	Low	2 or 3	None	1

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
1	Low	2 or 3	Low	1
1	Low	2 or 3	Medium	2
1	Low	2 or 3	High	3
1	Medium	1	None	1
1	Medium	1	Low	1
1	Medium	1	Medium	2
1	Medium	1	High	3
1	Medium	2 or 3	None	1
1	Medium	2 or 3	Low	2
1	Medium	2 or 3	Medium	2
1	Medium	2 or 3	High	3
1	High	1	None	2
1	High	1	Low	2
1	High	1	Medium	2
1	High	1	High	3
1	High	2 or 3	None	2
1	High	2 or 3	Low	2
1	High	2 or 3	Medium	3
1	High	2 or 3	High	4
1	Immediate	1	None	2
1	Immediate	1	Low	2
1	Immediate	1	Medium	2
1	Immediate	1	High	3
1	Immediate	2 or 3	None	2
1	Immediate	2 or 3	Low	2
1	Immediate	2 or 3	Medium	3
1	Immediate	2 or 3	High	4
2 or 3	None	1	None	1
2 or 3	None	1	Low	1
2 or 3	None	1	Medium	2
2 or 3	None	1	High	3
2 or 3	None	2 or 3	None	2
2 or 3	None	2 or 3	Low	2
2 or 3	None	2 or 3	Medium	2
2 or 3	None	2 or 3	High	4
2 or 3	Low	1	None	1
2 or 3	Low	1	Low	1
2 or 3	Low	1	Medium	2
2 or 3	Low	1	High	3
2 or 3	Low	2 or 3	None	2
2 or 3	Low	2 or 3	Low	2
2 or 3	Low	2 or 3	Medium	2
2 or 3	Low	2 or 3	High	4
2 or 3	Medium	1	None	2
2 or 3	Medium	1	Low	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
2 or 3	Medium	1	Medium	2
2 or 3	Medium	1	High	3
2 or 3	Medium	2 or 3	None	2
2 or 3	Medium	2 or 3	Low	2
2 or 3	Medium	2 or 3	Medium	3
2 or 3	Medium	2 or 3	High	4
2 or 3	High	1	None	2
2 or 3	High	1	Low	2
2 or 3	High	1	Medium	2
2 or 3	High	1	High	3
2 or 3	High	2 or 3	None	2
2 or 3	High	2 or 3	Low	2
2 or 3	High	2 or 3	Medium	3
2 or 3	High	2 or 3	High	4
2 or 3	Immediate	1	None	2
2 or 3	Immediate	1	Low	2
2 or 3	Immediate	1	Medium	2
2 or 3	Immediate	1	High	3
2 or 3	Immediate	2 or 3	None	2
2 or 3	Immediate	2 or 3	Low	2
2 or 3	Immediate	2 or 3	Medium	3
2 or 3	Immediate	2 or 3	High	4
4	None	1	None	2
4	None	1	Low	2
4	None	1	Medium	2
4	None	1	High	3
4	None	2 or 3	None	2
4	None	2 or 3	Low	2
4	None	2 or 3	Medium	3
4	None	2 or 3	High	4
4	Low	1	None	2
4	Low	1	Low	2
4	Low	1	Medium	2
4	Low	1	High	3
4	Low	2 or 3	None	2
4	Low	2 or 3	Low	2
4	Low	2 or 3	Medium	3
4	Low	2 or 3	High	4
4	Medium	1	None	2
4	Medium	1	Low	2
4	Medium	1	Medium	3
4	Medium	1	High	3
4	Medium	2 or 3	None	2
4	Medium	2 or 3	Low	3
4	Medium	2 or 3	Medium	3

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
4	Medium	2 or 3	High	4
4	High	1	None	2
4	High	1	Low	2
4	High	1	Medium	3
4	High	1	High	3
4	High	2 or 3	None	2
4	High	2 or 3	Low	3
4	High	2 or 3	Medium	4
4	High	2 or 3	High	4
4	Immediate	1	None	2
4	Immediate	1	Low	2
4	Immediate	1	Medium	3
4	Immediate	1	High	3
4	Immediate	2 or 3	None	2
4	Immediate	2 or 3	Low	3
4	Immediate	2 or 3	Medium	4
4	Immediate	2 or 3	High	4
5	None	1	None	2
5	None	1	Low	2
5	None	1	Medium	3
5	None	1	High	4
5	None	2 or 3	None	3
5	None	2 or 3	Low	3
5	None	2 or 3	Medium	4
5	None	2 or 3	High	5
5	Low	1	None	2
5	Low	1	Low	2
5	Low	1	Medium	3
5	Low	1	High	4
5	Low	2 or 3	None	3
5	Low	2 or 3	Low	3
5	Low	2 or 3	Medium	4
5	Low	2 or 3	High	5
5	Medium	1	None	2
5	Medium	1	Low	2
5	Medium	1	Medium	3
5	Medium	1	High	4
5	Medium	2 or 3	None	3
5	Medium	2 or 3	Low	3
5	Medium	2 or 3	Medium	4
5	Medium	2 or 3	High	5
5	High	1	None	2
5	High	1	Low	2
5	High	1	Medium	3
5	High	1	High	4

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
5	High	2 or 3	None	3
5	High	2 or 3	Low	3
5	High	2 or 3	Medium	4
5	High	2 or 3	High	5
5	Immediate	1	None	2
5	Immediate	1	Low	2
5	Immediate	1	Medium	3
5	Immediate	1	High	4
5	Immediate	2 or 3	None	3
5	Immediate	2 or 3	Low	3
5	Immediate	2 or 3	Medium	4
5	Immediate	2 or 3	High	5
6	None	1	None	2
6	None	1	Low	3
6	None	1	Medium	3
6	None	1	High	4
6	None	2 or 3	None	3
6	None	2 or 3	Low	3
6	None	2 or 3	Medium	4
6	None	2 or 3	High	5
6	Low	1	None	2
6	Low	1	Low	3
6	Low	1	Medium	3
6	Low	1	High	4
6	Low	2 or 3	None	3
6	Low	2 or 3	Low	3
6	Low	2 or 3	Medium	4
6	Low	2 or 3	High	5
6	Medium	1	None	3
6	Medium	1	Low	3
6	Medium	1	Medium	3
6	Medium	1	High	4
6	Medium	2 or 3	None	3
6	Medium	2 or 3	Low	4
6	Medium	2 or 3	Medium	4
6	Medium	2 or 3	High	5
6	High	1	None	3
6	High	1	Low	3
6	High	1	Medium	4
6	High	1	High	4
6	High	2 or 3	None	4
6	High	2 or 3	Low	4
6	High	2 or 3	Medium	5
6	High	2 or 3	High	5
6	Immediate	1	None	3

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your individual and family services level is:
6	Immediate	1	Low	3
6	Immediate	1	Medium	4
6	Immediate	1	High	4
6	Immediate	2 or 3	None	4
6	Immediate	2 or 3	Low	4
6	Immediate	2 or 3	Medium	5
6	Immediate	2 or 3	High	5

(2) DDD adds one level to your individual and family services level when your individual and family services level is determined to be:

(a) Level one, two, three, or four; and

(b) You have a score of four for question two "Other caregiving for persons who are disabled, seriously ill, or under five" in the DDD caregiver status acuity scale. See WAC 388-828-5260.

If your individual and family services level is:	Then your individual and family services support rating is:
4	432
5	528

NEW SECTION

WAC 388-828-9060 How does DDD determine your individual and family services rating? (1) Your individual and family services rating is determined by using the following table:

If your individual and family services level is:	Then your individual and family services support rating is:
1	0
2	240
3	336

NEW SECTION

WAC 388-828-9080 Does DDD make an adjustment to your individual and family services rating? DDD only makes an adjustment to your individual and family services support rating when you are **not** receiving medicaid personal care services per chapter 388-828 WAC.

NEW SECTION

WAC 388-828-9100 If you are not receiving medicaid personal care services, how does DDD determine the number to use in the adjustment of your individual and family services support rating? DDD determines the amount of the adjustment for your individual and family services support rating using the following tables:

(1)

If your individual and family services level is 1		And your ADL support needs level for the SIS per WAC 388-828-5480			
		None	Low	Medium	High
And your medical acuity level per WAC 388-828-5700	None	57	57	76	85
	Low	57	57	76	85
	Medium	57	88	122	145
	High	57	145	245	287

(2)

If your individual and family services level is 2		And your ADL support needs level for the SIS per WAC 388-828-5480			
		None	Low	Medium	High
And your medical acuity level per WAC 388-828-5700	None	297	297	316	325
	Low	297	297	316	325
	Medium	297	328	362	385
	High	297	385	485	527

(3)

If your individual and family services level is 3		And your ADL support needs level for the SIS per WAC 388-828-5480			
		None	Low	Medium	High
And your medical acuity level per WAC 388-828-5700	None	393	393	412	421
	Low	393	393	412	421
	Medium	393	424	458	481
	High	393	481	581	623

(4)

If your individual and family services level is 4		And your ADL support needs level for the SIS per WAC 388-828-5480			
		None	Low	Medium	High
And your medical acuity level per WAC 388-828-5700	None	489	489	508	517
	Low	489	489	508	517
	Medium	489	520	554	577
	High	489	577	677	719

(5)

If your individual and family services level is 5		And your ADL support needs level for the SIS per WAC 388-828-5480			
		None	Low	Medium	High
And your medical acuity level per WAC 388-828-5700	None	585	585	604	613
	Low	585	585	604	613
	Medium	585	616	650	673
	High	585	673	773	815

Example: If your individual and family service level is 3 and your ADL support needs level is "low" and your medical acuity level is "medium," the amount of your adjustment is 424.

NEW SECTION

WAC 388-828-9120 How does DDD determine your individual and family services score? (1) If you receive medicaid personal care per chapter 388-106 WAC, your individual and family services support rating is equal to your individual and family services score.

(2) If you are not receiving medicaid personal care, DDD adds your individual and family support rating to the amount of the adjustment determined in WAC 388-828-9100.

Example: If you are not receiving medicaid personal care services and your individual and family services support rating is 336 and the amount of your adjustment is 424, your individual and family services score is 760.

NEW SECTION

WAC 388-828-9140 How does DDD determine the amount of your individual and family service award? DDD uses the following table to determine the amount of your individual and family services award:

If your individual and family services score is:	Then the amount of your award is up to:
0 to 60	No Award
61 to 240	\$2000
241 to 336	\$3000

If your individual and family services score is:	Then the amount of your award is up to:
337 to 527	\$4000
528 or more	\$6000

WSR 07-22-019
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed October 26, 2007, 8:54 a.m., effective October 26, 2007, 8:54 a.m.]

Effective Date of Rule: Immediately.
 Purpose: The department is combining three family support programs into one individual and family services program as directed by the legislature into new sections in chapter 388-832 WAC.
 Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.040.
 Other Authority: 2SSB 5467.
 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: 2SSB 5467, as amended by the house, directs the department to create the individual and

family services program for persons with developmental disabilities by July 1, 2007. A preproposal statement of inquiry (CR-101) was filed as WSR 07-10-018 on April 20, 2007. At that time, the department proposed amending chapter 388-825 WAC but has since decided that a new chapter is required, due to the length of the new rules. This emergency rule extends the emergency rule filed as WSR 07-14-071 while the department obtains input and feedback from the affected stakeholders.

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 91, 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 91, 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 91, Amended 0, Repealed 0.

Date Adopted: October 23, 2007.

Stephanie E. Schiller
Rules Coordinator

Chapter 388-832 WAC

INDIVIDUAL AND FAMILY SERVICES PROGRAM

NEW SECTION

WAC 388-832-0001 What definitions apply to this chapter? The following definitions apply to this Chapter:

"Agency Provider" means a licensed and/or ADSA certified business that is contracted with ADSA or a county to provide DDD services (e.g., personal care, respite care, residential services, therapy, nursing, employment, etc.).

"Allocation" means an amount of funding available to the client & family for a maximum of twelve months, based upon assessed need.

"Authorization" means DDD approval of funding for a service as identified in the individual support plan or evidence of payment of a service.

"Back-up Caregiver" is a person who has been identified as an informal caregiver and is available to provide assistance as an informal caregiver when other caregivers are unavailable.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the division under chapter 71A.16 RCW.

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration (ADSA), department of social and health services (DSHS).

"Department" means the department of social and health services (DSHS).

"Emergency" means the client's health or safety is in jeopardy.

"Family" means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

"Family Home" means the residence where you and your relatives live.

"Formal Caregiver" is a person/agency who receives payment from DDD to provide a service.

"Individual Provider" means an individual who is contracted with DDD to provide medicaid or waiver personal care, respite care, or attendant care services.

"Individual Support Plan" or **"ISP"** is a document that authorizes the DDD paid services to meet a client's needs identified in the DDD Assessment.

"Informal Caregiver" is a person who provides supports without payment from DDD for a service.

"Legal Guardian" means a person/agency, appointed by a court, which is authorized to make some or all decisions for a person determined by the court to be incapacitated. In the absence of court intervention, parents remain the legal guardian for their child until the child reaches the age of eighteen.

"Parent family support contract" means a contract between DDD and the parent to reimburse the parent for the purchase of goods and services paid for by the parent.

"Pass through contract" means a contract between DDD and a third party to reimburse the third party for the purchase of goods and services paid for by the third party.

"Primary Caregiver" is the formal or informal caregiver who provides the most support.

"Residential Habilitation Center" or **"RHC"** is a state operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities per chapter 71A.20 RCW.

"State funded services" means services that are funded entirely with state dollars.

"State supplementary payment" or **"SSP"** means a state paid cash assistance program for certain DDD clients eligible for supplemental security income per chapter 388-827 WAC.

"You" means the client.

DESCRIPTION

NEW SECTION

WAC 388-832-0005 What is the individual and family services program? The "individual and family services program" (IFS Program) is a state-only funded program that:

(1) Provides an array of services to families to help maintain and stabilize the family unit; and

(2) Replaces WAC 388-825-200 through 388-825-242 (the family support opportunity program), WAC 388-825-252 through 388-825-256 (the traditional family support program), WAC 388-825-500 through 388-825-595, (the flexible family support pilot program), and WAC 388-825-244 through 388-825-250 (other family support rules).

NEW SECTION

WAC 388-832-0007 What is the purpose of the individual and family services (IFS) program? The purpose of the IFS program is to have one DDD family support program that will:

- (1) Form a partnership between the state and families to help support families who have a client of DDD living in the family home; and
- (2) Provide families with a choice of services and allow families more control over the resources allocated to them.

ELIGIBILITYNEW SECTION

WAC 388-832-0015 Am I eligible to participate in the IFS program? You are eligible to be considered for the IFS program if you meet the following criteria:

- (1) You are currently an eligible client of DDD;
- (2) You live in your family home;
- (3) You are not enrolled in a DDD home and community based services waiver defined in chapter 388-845 WAC;
- (4) You are currently enrolled in traditional family support, family support opportunity or the family support pilot or funding has been approved for you to receive IFS program services;
- (5) You are age three or older as of July 1, 2007;
- (6) You have been assessed as having a need for IFS program services as listed in WAC 388-832-0140;
- (7) You are not receiving a DDD residential service; and
- (8) If you are a parent who is an eligible client of DDD, your child lives in your home and requires your support as a parent.

NEW SECTION

WAC 388-832-0020 Will I be authorized to receive IFS services if I meet the eligibility criteria in WAC 388-832-0015? Meeting eligibility criteria for the IFS program does not ensure access to or receipt of the IFS program services.

- (1) Receipt of IFS services is limited by availability of funding and your assessed need.
- (2) WAC 388-832-0085 through 388-832-0090 describes how DDD will determine who will be approved to receive funding.

NEW SECTION

WAC 388-832-0022 What determines the allocation of funds available to me to purchase IFS services? The allocation of funds is based on your service level, as described in WAC 388-832-0130. The DDD assessment will determine your service level based on your assessed need.

NEW SECTION

WAC 388-832-0023 If I qualify for another DDD service, will my IFS program be reduced or terminated? Since your IFS amount is based on the assessed need, if your

needs change, the dollar amount will be impacted. However, if you are qualified for another DDD service, you can still receive IFS as long as you continue to have an assessed need and have met the eligibility criteria for the IFS Program.

NEW SECTION

WAC 388-832-0024 If I participate in the IFS program, will I be eligible for services through the DDD home and community based services (HCBS) waiver? (1) If you participate in the IFS program you may not participate in the DDD HCBS waiver at the same time.

(2) You may request enrollment in a DDD HCBS waiver at any time per WAC 388-845-0050.

(3) Participation in the IFS program will not affect your potential waiver eligibility.

NEW SECTION

WAC 388-832-0025 Am I eligible for the IFS program if I currently receive other DDD paid services? If you receive other non-waiver DDD funded services, you may be eligible for the IFS program.

NEW SECTION

WAC 388-832-0030 What if I receive SSP funding in lieu of the IFS program? If you receive SSP funding in lieu of IFS, your SSP funding will remain unchanged for the first year of the DDD assessment (June 1, 2007 through May 31, 2008) and you will not receive IFS funding.

NEW SECTION

WAC 388-832-0035 What happens if I am no longer eligible for SSP in lieu of the IFS program? If your SSP eligibility is based on your eligibility for the IFS program and you become ineligible for SSP funding, you will be assessed for enrollment in the IFS program.

NEW SECTION

WAC 388-832-0045 What if there are two or more family members who are eligible for the IFS program? If there are two or more family members who are eligible for the IFS program, each family member will be assessed to determine their IFS program allocation based on their individual need.

NEW SECTION

WAC 388-832-0050 How do I request IFS program services? You may contact your DDD case/resource manager at any time to request IFS program services. You will receive written notice of DDD's approval or denial along with your administrative hearing rights.

NEW SECTION

WAC 388-832-0055 How long do I remain eligible for the IFS program? To remain eligible for the IFS pro-

gram you must be reassessed at least every twelve months or sooner if there is a significant change in your needs per WAC 388-828-1500.

NEW SECTION

WAC 388-832-0060 Can DDD terminate my eligibility for the IFS program? You may be terminated from the IFS program for any of the following reasons:

- (1) You no longer meet DDD eligibility per WAC 388-823-0010 through 388-823-0170;
- (2) You no longer meet the eligibility criteria for the IFS program per WAC 388-832-0015;
- (3) You have not used an IFS program service during the last twelve calendar months;
- (4) You cannot be located or do not make yourself available for the annual DDD assessment; and/or
- (5) You refuse to participate with DDD in service planning.
- (6) You begin to receive a DDD residential service.

NEW SECTION

WAC 388-832-0065 If I go into a temporary out of home placement, will I be eligible for IFS upon my return home? You can apply for the IFS program once you return home from placement by contacting your DDD case manager, if your out of home placement does not exceed twelve months. Your case manager will schedule an assessment with you, and if you meet all the eligibility criteria per WAC, have an assessed need, and funding is available you will receive an IFS program allocation.

INDIVIDUAL AND FAMILY SERVICES PROGRAM WAIT LIST

NEW SECTION

WAC 388-832-0070 What is the IFS program wait list? The IFS wait list is a list of clients who live with their family and the family has requested family support services.

NEW SECTION

WAC 388-832-0075 Do I have to have a DDD assessment before I can be added to the IFS wait list? You do not have to have a DDD assessment prior to your name being added to the IFS wait list.

- (1) Your name and request date will be added to the wait list.
- (2) A notice will be sent to you to let you know your name has been added to the IFS wait list.

NEW SECTION

WAC 388-832-0085 When there is state funding available to enroll new clients in the IFS program, how will DDD select from the clients on the IFS program wait list? When there is state funding available for new IFS participants, DDD may enroll participants based on the following considerations:

(1) Clients who have requested RHC respite, emergency services, or residential placement, prior to June 30, 2007.

(2) Clients with the highest scores in caregiver and behavior status on the mini assessment.

(3) Clients who have been on the IFS program wait list the longest.

NEW SECTION

WAC 388-832-0087 What happens next if I am selected from the IFS program wait list? If you are selected from the IFS program wait list:

(1) Your DDD case/resource manager will contact you, and determine if you meet the eligibility criteria for IFS program per WAC 388-832-0015 (1) though (6);

(2) If you meet the criteria per (1) above, your case/resource manager will schedule an appointment to complete your DDD assessment or reassessment.

(3) If you have not been receiving any DDD paid services, your DDD eligibility will need to be reviewed per WAC 388-823-1010(3)

(4) Your DDD eligibility must be completed prior to completing the DDD assessment.

NEW SECTION

WAC 388-832-0090 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will I qualify for the IFS program? If you currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, you will continue to receive funding under the TFS, FSO, or the FSP program until your DDD assessment identifies that you have a need for the IFS program.

NEW SECTION

WAC 388-832-0095 What happens if DDD finds me ineligible for the IFS program? If you do not meet the criteria for the IFS program, DDD will terminate your individual and family services eligibility and funding. You will receive written notice of this decision along with your administrative hearing rights.

ASSESSMENT

NEW SECTION

WAC 388-832-0100 What assessment will DDD use to assess my need? The DDD assessment will be used to assess your need. The DDD assessment is an assessment tool designed to measure the support needs of persons with developmental disabilities, and is described in chapter 388-828 WAC.

NEW SECTION

WAC 388-832-0110 Will DDD ask about my family's income? DDD is required to request family income information for:

- (1) Families of children who are seventeen years of age or younger; and
- (2) All individuals who are receiving state-only funded services.

NEW SECTION

WAC 388-832-0113 Will my IFS allocation be impacted by my income? The amount of services you receive will be solely based on your assessed needs. Your income will not affect your level of service.

NEW SECTION

WAC 388-832-0114 What is family income? Family income is defined as the total unadjusted, annual family (or household) income from all sources for the last calendar year as reported to the internal revenue service (IRS).

NEW SECTION

WAC 388-832-0115 How is an individual's access to DDD paid services affected if family income information is not provided? An individual's access to DDD paid services is not affected when families decline to provide DDD with family income information.

NEW SECTION

WAC 388-832-0127 What if I have assessed needs that cannot be met by the IFS program? If you complete the DDD assessment and are assessed to have an unmet need and there is no approved funding to support that need, DDD will offer you referral information for ICF/MR services. In addition, DDD may:

- (1) Provide information and referral for non-DDD community-based supports;
- (2) Add your name to the waiver data base, if you have requested enrollment in a DDD HCBS waiver per chapter 388-845 WAC; and
- (3) Authorize short-term emergency services as an exception to rule (ETR) per WAC 388-440-0001.

NEW SECTION

WAC 388-832-0128 What is the plan effective date? (1) For an initial individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

(2) For a reassessment or review of the individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

ALLOCATIONNEW SECTION

WAC 388-832-0130 What is the amount of the IFS program allocation my family is going to receive? The DDD assessment, described in chapter 388-828 WAC, will determine your level of need. The IFS program annual allocations are as follows:

- (1) Level 1 - Up to \$2,000;
- (2) Level 2 - Up to \$3,000;
- (3) Level 3 - Up to \$4,000; and
- (4) Level 4 - Up to \$6,000.

NEW SECTION

WAC 388-832-0132 May I request to exceed the level I was assessed? (1) The DDD assessment was designed to measure the support needs of persons with developmental disabilities, therefore your level may not exceed the level you were assessed.

(2) If a significant change occurs, you may contact your DDD case manager for a possible reassessment of your support needs.

NEW SECTION

WAC 388-832-0135 How can my family use its IFS program allocation? Your IFS program allocation is available to pay for any of the services listed in WAC 388-832-0140 if:

- (1) The service need relates to and results from your developmental disability, and
- (2) The need is identified in your DDD assessment and identified on your ISP.

NEW SECTION

WAC 388-832-0136 If I have a family support reimbursement contract, can DDD ask me to verify my purchases through reviewing receipts? If you have a family support reimbursement contract, DDD will ask you to verify your purchases through reviewing receipts. You should submit receipts to your case manager whenever you are asking for reimbursement. Your request for reimbursement must be received within thirty days of the date that the service was received.

NEW SECTION

WAC 388-832-0137 May I use my allocation over a two year period for large costly expenditures? You may not use your allocation over a two year period for a large costly expenditure. Your annual allocation must be used during the twelve month period your assessed needs were determined. If your IFS program services are not used in the twelve month period, you will be terminated from the IFS program.

SERVICES

NEW SECTION

WAC 388-832-0140 What services are available through the IFS program? The services available in the IFS program are limited to the following:

- (1) Respite care;
- (2) Therapies:
 - (a) Physical therapy (PT);
 - (b) Occupational therapy (OT); and
 - (c) Speech, language and communication therapy.
- (3) Architectural and vehicular modifications;
- (4) Equipment and supplies;
- (5) Specialized nutrition and clothing;
- (6) Excess medical costs not covered by another source;
- (7) Co-pays for medical and therapeutic services;
- (8) Transportation;
- (9) Training;
- (10) Counseling;
- (11) Behavior management;
- (12) Parent/sibling education;
- (13) Recreational opportunities; and
- (14) Community service grants.

NEW SECTION

WAC 388-832-0143 What is respite care? Respite care is short-term intermittent relief for persons normally providing care for individuals receiving IFS program services.

NEW SECTION

WAC 388-832-0145 Who is eligible to receive respite care? You are eligible to receive respite care if you are approved for IFS program services and:

- (1) You live in a private home and no one living with you is paid to be your caregiver.
- (2) You live with a paid caregiver who is your natural, step, or adoptive parent.

NEW SECTION

WAC 388-832-0150 Where can respite care be provided? (1) Respite care can be provided in the following location(s):

- (a) Individual's home; or
 - (b) Relative's home.
- (2) Respite care can be also be provided in the following location(s) but require a DDD agency respite contract:
- (a) Licensed children's foster home;
 - (b) Licensed, contracted and DDD certified group home;
 - (c) Licensed boarding home contracted as an adult residential center;
 - (d) Licensed and contracted adult family home;
 - (e) Children's licensed group home, licensed staffed residential home, or licensed childcare center; or
 - (f) Adult day health.

NEW SECTION

WAC 388-832-0155 Who are qualified providers of respite care? Providers of respite care can be any of the following individuals or agencies contracted with DDD for respite care:

- (1) Individuals meeting the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies, licensed under WAC 246-335-012(1);
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;
- (4) Licensed and contracted adult family home;
- (5) Licensed and contracted adult residential care facility;
- (6) Licensed and contracted adult residential rehabilitation center under WAC 246-325-012;
- (7) Licensed childcare center under chapter 388-295 WAC;
- (8) Licensed child daycare center under chapter 388-295 WAC;
- (9) Adult day/health care centers contracted with DDD; or
- (10) Certified provider per chapter 388-101 WAC when respite is provided within the DDD contract for certified residential services.

NEW SECTION

WAC 388-832-0160 Are there limits to the respite care I receive? The following limitations apply to the respite care you can receive:

- (1) Respite cannot replace:
 - (a) Daycare while a parent or guardian is at work; and/or
 - (b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.
- (2) Respite providers have the following limitations and requirements:
 - (a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;
 - (b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and
 - (c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.
- (3) Your caregiver cannot receive respite services for you while being paid to provide DDD services for other persons at the same time.
- (4) The need for respite must be identified in your ISP and cannot exceed your IFS allocation.
- (5) If your personal care provider is your parent, your parent provider may not provide respite services to any client in the same month that you receive respite services.

NEW SECTION

WAC 388-832-0165 What are considered excess medical costs not covered by another source? Excess medical costs are medical expenses incurred by a client after medicaid or private insurance have been accessed or when the client does not have medical insurance. This may include the following:

- (1) Skilled nursing services (ventilation, catheterization, and insulin shots);
- (2) Psychiatric services;
- (3) Medical services related to the persons disability and an allowable medicaid covered expense; and/or
- (4) Prescriptions.

NEW SECTION

WAC 388-832-0166 How are excess medical costs paid? (1) Excess medical costs are reimbursed to a family member who has a family support contract with the division of developmental disabilities and receipts are received within thirty days from the date of service.

(2) Skilled nursing services are paid to the DSHS contracted nurse directly.

NEW SECTION

WAC 388-832-0170 What therapies can I receive?

The therapies the individual can receive are:

- (1) Physical therapy;
- (2) Occupational therapy; and/or
- (3) Speech, hearing and language therapy.

NEW SECTION

WAC 388-832-0175 Who is a qualified therapist?

Providers must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing.

NEW SECTION

WAC 388-832-0180 Are there limits to the therapy I can receive? The following limitations apply to therapy you may receive:

- (1) Additional therapy may be authorized as a service only after you have accessed what is available to you under medicaid and any other private health insurance plan or school;
- (2) DDD does not pay for treatment determined by DSHS to be experimental;
- (3) DDD and the treating professional determine the need for and amount of service you can receive;
 - (a) DDD may require a second opinion from a DDD selected provider.
 - (b) DDD will require evidence that you have accessed your full benefits through medicaid, private insurance and the school before authorizing this service.
- (4) The need for therapies must be identified in your ISP and cannot exceed your IFS allocations.

NEW SECTION

WAC 388-832-0185 What are architectural and vehicular modifications? (1) Architectural and vehicular modifications are physical adaptations to the home and vehicle of the individual to:

- (a) Ensure the health, welfare and safety of the client and or caregiver; or
 - (b) Enable a client who would otherwise require a more restrictive environment to function with greater independence in the home or in the community.
- (2) Architectural modifications include the following:
- (a) Installation of ramps and grab bars;
 - (b) Widening of doorways;
 - (c) Modification of bathroom facilities; or
 - (d) Installing specialized electrical and or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.
- (3) Vehicular modifications include the following:
- (a) Wheel chair lifts;
 - (b) Strap downs; or
 - (c) Other access modifications.

NEW SECTION

WAC 388-832-0190 Who is a qualified provider for architectural and vehicular modifications? The provider making these architectural and vehicular modifications must be a registered contractor per chapter 18.27 RCW and contracted with DDD.

NEW SECTION

WAC 388-832-0195 What limits apply to architectural and vehicular modifications? The following service limitations apply to architectural and vehicular modifications are in addition to any limitations in other rules governing this service:

- (1) Prior approval by the director of DDD or designee is required.
- (2) Architectural and vehicular modifications to the home and vehicle are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, central air conditioning, fencing for the yard, etc.
- (3) Architectural modifications cannot add to the square footage of the home.
- (4) DDD will require evidence that you accessed your full benefits through medicaid, private insurance and the division of vocational rehabilitation (DVR) before authorizing this service.
- (5) Architectural and vehicular modifications must be the most cost effective modification.
- (6) Architectural and vehicular modifications will be prorated by the number of other members in the household who use these modifications.

NEW SECTION

WAC 388-832-0200 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are items that:

- (a) Help clients with their activities of daily living or better participate in their environment;
- (b) Are primarily and customarily used to service a medical purpose; and
- (c) Are generally not useful to a person in the absence of illness, injury, or disability.

(2) Included are devices, controls, appliances, and items necessary for life support; ancillary supplies and equipment necessary to the proper functioning of such items; and durable and nondurable medical equipment not available through medicaid under the medicaid state plan. Examples are mobility devices such as walkers and wheel chairs, communication devices, and medical supplies. Diapers and wipes may be approved only for those three years and older.

NEW SECTION

WAC 388-832-0205 Who are qualified providers of specialized medical equipment and supplies? The provider of specialized medical equipment and supplies must be a medical equipment supplier contracted with DDD (or a parent who has a contract with DDD or the cost reimbursement contract).

NEW SECTION

WAC 388-832-0210 Are there limitations to my receipt of specialized medical equipment and supplies? The following limitations apply to your receipt of specialized medical equipment and supplies:

- (1) Prior approval by the director of DDD or designee is required for each authorization.
- (2) DDD may require a second opinion by a DDD-selected provider.
- (3) Items reimbursed with state funds shall be in addition to any medical equipment and supplies furnished under medicaid or private insurance.
- (4) Items must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability.
- (5) Medications, prescribed or nonprescribed, and vitamins/supplements are excluded.
- (6) The need for specialized medical equipment and supplies must be identified in your ISP and cannot exceed your IFS allocation.

NEW SECTION

WAC 388-832-0215 What is specialized nutrition and specialized clothing? (1) Specialized nutrition is specialized formulas or specially prepared foods for which a written recommendation has been provided by a qualified and appropriate professional and when it constitutes fifty percent or more of the person's caloric intake (e.g., licensed physician or registered dietician).

(2) Specialized clothing is clothing adapted for a physical disability, excessive wear clothing, or specialized footwear for which a written recommendation has been provided by a qualified and appropriate professional (e.g., a podiatrist, physical therapist, or behavior specialist).

NEW SECTION

WAC 388-832-0220 How do I pay for specialized nutrition and specialized clothing? Specialized nutrition and specialized clothing can be a reimbursable expense through the parent family support contract and the pass through contract.

NEW SECTION

WAC 388-832-0225 Are there limits for specialized nutrition and specialized clothing? The need for specialized nutrition and specialized clothing must be identified in your ISP and cannot exceed your IFS allocation.

NEW SECTION

WAC 388-832-0235 What are co-pays for medical and therapeutic services? Co-pays for medical and therapeutic services are for disability related services you may have received that were not covered by your private insurance or medicaid.

NEW SECTION

WAC 388-832-0240 How do I pay for medical and therapeutic co-pays? Medical and therapeutic co-pays can be a reimbursable expense through the parent family support contract.

NEW SECTION

WAC 388-832-0245 Are there limits to medical and therapeutic co-pays? (1) Medical and therapeutic co-pays must be identified as a need in your ISP and may not exceed your IFS program allocation.

(2) The co-pays must be for your disability related medical or therapeutic needs.

(3) Prescribed or nonprescribed vitamins and supplements are excluded.

NEW SECTION

WAC 388-832-0250 What are transportation services? (1) Transportation services are costs associated with client access to essential medical services and medical appointments, including mileage, ferry, or transit costs.

(2) Whenever possible the person must use family, neighbors, friends, or community agencies that can provide this service without charge.

NEW SECTION**WAC 388-832-0255 Who is a qualified provider?** (1)

The provider of transportation services can be an individual or agency contracted with DDD.

(2) Transportation services can be a reimbursable expense through the parent family support contract.

NEW SECTION

WAC 388-832-0260 Are there limitations to the transportation services I can receive? The following limitations apply to transportation services:

(1) Costs of transportation services to/from medical or medically related appointments that are covered by the client's medicaid may not be reimbursed with IFS program funds.

(2) Transportation is limited to travel to and from an essential medical service.

(3) Transportation does not include the purchase of a bus pass or transportation to and from school or to and from work.

(4) Reimbursement for provider mileage requires prior approval by the director of DDD or designee and is paid according to contract.

(5) This service does not cover the cost of purchase, lease, or rental of vehicles.

(6) Reimbursement for provider time is not included in this service.

(7) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(8) You are not eligible for transportation services if the cost and responsibility for transportation is already included in providers' contract and payment.

(9) Car expenses, maintenance, tires or repairs, or motor vehicle insurance are not covered.

(10) The need for transportation services must be identified in your ISP and cannot exceed your IFS allocation.

NEW SECTION

WAC 388-832-0265 What is training and counseling? Training and counseling is professional assistance provided to families to better meet the specific needs of the individual outlined in their ISP including:

- (1) Health and medication monitoring;
- (2) Positioning and transfer;
- (3) Augmentative communication systems; and
- (4) Family counseling.

NEW SECTION

WAC 388-832-0270 Who is qualified provider for training and counseling? To provide training and counseling, a provider must be one of the following licensed, registered or certified professionals and be contracted with DDD for the service specified in the individual support plan:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;

- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech/language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American sign language instructor;
- (13) Nutritionist;
- (14) Registered counselor; or
- (15) Certified dietician.

NEW SECTION

WAC 388-832-0275 Are there limitations to the training and counseling I can receive? (1) Expenses to the family for room and board or attendance, including registration fees for conferences are excluded as a service under family counseling and training.

(2) The need for training and counseling must be identified in your ISP and cannot exceed your IFS allocation.

NEW SECTION**WAC 388-832-0280 What is behavior management?**

Behavior management is the development and implementation of programs designed to support the client using positive behavioral techniques. Behavior management programs help the client decrease aggressive, destructive, sexually inappropriate or other behaviors that compromises the client's ability to remain in the family home, and develop strategies for effectively relating to caregivers and other people in the client's life.

NEW SECTION

WAC 388-832-0285 Who is a qualified provider of behavior management? The provider of behavior management and consultation must be one of the following professionals contracted with DDD and duly licensed, registered or certified to provide this service:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Registered counselor; or
- (11) Polygrapher.

NEW SECTION

WAC 388-832-0290 Are there limits to behavior management? The following limits apply to your receipt of behavior management:

(1) DDD and the treating professional will determine the need and amount of service you will receive.

(2) DDD may require a second opinion from DDD-selected provider.

(3) Only scientifically proven, nonexperimental methods may be utilized.

(4) Providers may not use methods that cause pain, threats, isolation or locked settings.

(5) The need for behavior management must be identified in your ISP and cannot exceed your IFS allocation.

(6) Psychological testing is not allowed.

NEW SECTION

WAC 388-832-0300 What is parent/sibling education? Parent sibling education is the cost of attending class training for parents and siblings who have a family member with a developmental disability offering relevant topics. Examples of topics could be coping with family stress, addressing your child's behavior, manage the family's daily schedule or advocating for your child.

NEW SECTION

WAC 388-832-0305 Who are qualified providers? Parent/sibling education may be a reimbursable expense through the parent family support contract and the pass through contract.

NEW SECTION

WAC 388-832-0310 Are there limitations to parent/sibling education? (1) Parent/sibling education does not include conference fees or lodging.

(2) Viewing of VHS or DVD at home by yourself does not meet the definition of parent or sibling education.

(3) The need for parent/sibling education must be identified in your ISP and cannot exceed your IFS allocation.

NEW SECTION

WAC 388-832-0315 What are recreational opportunities? Recreational opportunities are activities that may be available to children and adults with a developmental disability such as summer camps, YMCA activities, day trips or typical activities available in your community.

NEW SECTION

WAC 388-832-0320 How are recreational opportunities paid for? Recreational opportunities may be a reimbursable expense through the parent family support contract, agency contract and the pass through contract.

NEW SECTION

WAC 388-832-0325 Are there limitations to recreation opportunities? (1) The recreational opportunities must occur in your community or the bordering states addressed in WAC 388-832-0331.

(2) The need for recreation opportunities must be identified in your ISP and cannot exceed your IFS allocation.

(3) DDD does not pay for recreational opportunities that may pose a risk to individuals with disabilities or the community at large.

NEW SECTION

WAC 388-832-0330 Does my family have a choice of IFS program services? In collaboration with your case manager and based upon your assessed need, you may choose the services available with this program.

NEW SECTION

WAC 388-832-0331 May I receive IFS program services out of state? You may receive IFS program services in a recognized out of-state bordering city on the same basis as in-state services. The only recognized bordering cities are: Coeur d'Alene, Moscow, Sandpoint, Priest River and Lewiston Idaho; and Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria Oregon.

NEW SECTION

WAC 388-832-0332 Will I have a choice of provider? You may choose a qualified individual, agency or licensed provider within the guidelines described in WAC 388-825-300 through 388-825-400. These WACs describe:

(1) Qualifications for individuals and agencies providing DDD services in the client's residence or the provider's residence or other settings; and

(2) Conditions under which DDD will pay for the services of an individual provider or a home care agency provider or other provider.

NEW SECTION

WAC 388-832-0333 What restrictions apply to the IFS program services? The following restrictions apply to the IFS program services:

(1) IFS program services are authorized only after you have accessed what is available to you under medicaid, including medicaid personal care, and any other private health insurance plan, school, or child development services.

(2) All IFS program service payments must be agreed to by DDD and the client in your ISP.

(3) DDD will contract directly with a service provider or parent for the reimbursement of goods or services purchased by the family member.

(4) DDD will not pay for treatment determined by DSHS/MAA or private insurance to be experimental.

(5) Your choice of qualified providers and services may be limited to the most cost effective option that meets your assessed need.

(6) The IFS program will not pay for services provided after the death of the eligible client. Payment may occur after the date of death, but not the service.

(7) DDD's authorization period will start when you agree to be in the IFS program and have given written or verbal approval for your ISP. The period will last up to one year and

may be renewed if you continue to need and utilize services. If you have not utilized the services within one year period you will be terminated from this program.

(8) IFS program will not pay for psychological evaluations or testing, DNA or genetic testing.

(9) Supplies/materials related to community integration or recreational activities are the responsibility of the family.

ONE TIME AWARDS

NEW SECTION

WAC 388-832-0335 What is a one-time award? One time awards are payments to individuals and families who meet the IFS program eligibility requirements and have a one time unmet need not covered by any other sources for which they are eligible. One time awards can only be used for architectural/vehicular modifications, or specialized equipment.

NEW SECTION

WAC 388-832-0340 Who is eligible for a one-time award? You are eligible to be considered for a one-time award if:

(1) You are not currently authorized for IFS program services in your ISP.

(2) You meet the eligibility for the IFS program.

(3) The need is critical to the health or safety of you or your caregiver and you and your family have no other resource to meet the need or your resources do not cover all of the expense.

NEW SECTION

WAC 388-832-0345 Are there limitations to one-time awards? (1) One time awards are limited to architectural/vehicular modifications or specialized equipment.

(2) One time awards cannot exceed six thousand dollars in a twenty-four month period.

(3) One time awards must be approved by the director of DDD or designee.

(4) Eligibility for a one-time award does not guarantee approval and authorization of the service by DDD. Services are based on availability of funding.

(5) One time awards will be prorated by the number of other members in the household who use these modifications or specialized equipment.

NEW SECTION

WAC 388-832-0350 How do I apply for the one-time award? If you have a need for a one-time award, you can make the request to your case manager.

NEW SECTION

WAC 388-832-0353 Do I need to have a DDD assessment before I receive a one-time award? You do not need to have a DDD assessment prior to receiving a one-time award, however the regional manager/designee may request DDD assessment for a client at any time.

EMERGENCY

NEW SECTION

WAC 388-832-0355 What is an emergency service? Emergency services are respite care, behavior management or nursing services in response to a single incident, situation or short term crisis.

NEW SECTION

WAC 388-832-0360 What situations qualify for emergency services? The following situations qualify as an emergency:

(1) You lose your family caregiver due to care giver hospitalization, or death;

(2) There are changes in your caregiver's mental or physical status resulting in your family caregiver's inability to perform effectively for the individual; or

(3) There are significant changes in your emotional or physical condition that require emergency services.

NEW SECTION

WAC 388-832-0365 Who is a qualified provider of emergency services? The provider of the service you need to meet your emergency must meet the provider qualifications required to contract for that specific service per the following WAC's:

(1) Respite per WAC 388-832-0155.

(2) Behavior Management per WAC 388-832-0285.

(3) Nursing per WAC 388-845-1705.

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.

NEW SECTION

WAC 388-832-0366 What limitations apply to emergency services? (1) Emergency service may be granted to individuals and families who are on the IFS wait list and have an emergent need.

(2) Funds are provided for a limited period not to exceed sixty days.

(3) All requests are reviewed and approved or denied by the director of DDD or designee.

NEW SECTION

WAC 388-832-0367 What if the client or family situation requires more than sixty days of emergency service?

(1) Any need that requires more than sixty days of an emergency service does not meet the definition of an emergency service.

(2) To extend the emergency services, there must be a new or reviewed DDD assessment and approval for service funding.

NEW SECTION

WAC 388-832-0369 Do I need to have a DDD assessment before I receive an emergency service? You do not

need to have a DDD assessment prior to receiving an emergency service, however the regional manager/designee may request a DDD assessment for a client at any time.

GRANTS

NEW SECTION

WAC 388-832-0370 What are the IFS community service grants? Community service grants are grants to agencies or individuals funded by the IFS program to promote community oriented projects that benefit families. Community service grants may fund long-term or short-term projects that benefit children and/or adults.

NEW SECTION

WAC 388-832-0375 How does a proposed project qualify for funding? To qualify for funding, a proposed project must:

- (1) Address one or more of the following topics:
 - (a) Provider support and development;
 - (b) Parent helping parent; or
 - (c) Community resource development for inclusion of all.
- (2) Meet most of the following goals :
 - (a) Enable families to use generic resources which are integrated activities and/or, resources community members typically have access to;
 - (b) Reflect geographic, cultural and other local differences;
 - (c) Support families in a variety of non crisis-oriented ways;
 - (d) Prioritize support for unserved families;
 - (e) Address the diverse needs of Native Americans, communities of color and limited or non-English speaking groups;
 - (f) Be family focused;
 - (g) Increase inclusion of persons with developmental disabilities;
 - (h) Benefit families who have children or adults eligible for services from DDD and who do not receive other DDD paid services; and
 - (i) Promote community collaboration, joint funding, planning and decision making.

HEARINGS AND APPEALS

NEW SECTION

WAC 388-832-0460 How will DDD notify me on their decisions? Your case resource manager will call you and send a written planned action notice per WAC 388-825-100.

NEW SECTION

WAC 388-832-0470 What are my appeal rights under the individual family services program? You have the appeal rights described in WAC 388-825-100 through 388-825-165.

WSR 07-23-003

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 07-275—Filed November 7, 2007, 4:28 p.m., effective November 7, 2007, 4:28 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-55-01000A; and amending WAC 220-55-010.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Statutory requirements have changed and external display of shellfish and seaweed or razor clam license is no longer required. These rules are interim until permanent rules take effect.

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: November 7, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-55-01000B Recreational shellfish and seaweed license. Notwithstanding the provisions of WAC 220-55-010, effective immediately until further notice, a personal use shellfish and seaweed or razor clam license no longer needs to be visible on one's person at all times.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-55-01000A Recreational shellfish and seaweed license. (07-275)

WSR 07-23-012
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed November 8, 2007, 10:58 a.m., effective November 8, 2007, 10:58 a.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of these amendments is to revise WAC 388-825-103 and 388-825-145 to comply with the proposed order and settlement agreement under *Boyle v. Arnold-Williams*. The amendments add language regarding disenrollment from a DDD home and community based services waiver to the notice requirements and to the continuance of benefits pending an administrative hearing. These emergency rules replace the emergency rules filed as WSR 07-22-050 to correct a cross reference in WAC 388-825-145 (2)(d).

Citation of Existing Rules Affected by this Order: Amending WAC 388-825-103 and 388-825-145.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: Title 71A 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: These amendments are necessary to comply with the proposed order and settlement listed above and to replace the emergency rules filed as WSR 07-22-050. These rules correct a cross reference in WAC 388-825-145 (2)(d).

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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, 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: November 7, 2007.

Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-015, filed 5/9/05, effective 6/9/05)

WAC 388-825-103 When will I receive written notice of decisions made by DDD? You will receive written notice from DDD of the following decisions:

(1) The denial or termination of eligibility for services under WAC 388-825-030 and 388-825-035;

(2) The authorization, denial, reduction, or termination of services or the payment of SSP set forth in chapter 388-827 WAC that are authorized by DDD;

(3) The admission or readmission to, or discharge from a residential habilitation center.

(4) Disenrollment from a DDD home and community based services waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver.

AMENDATORY SECTION (Amending WSR 06-10-055, filed 5/1/06, effective 6/1/06)

WAC 388-825-145 Will my benefits continue if I request an administrative hearing? (1) If you request an administrative hearing regarding the department's decision to transfer you from a residential habilitation center to the community under RCW 71A.20.080, the rules in WAC 388-825-155 apply.

(2) If you request an administrative hearing within the ten-day notice period, as described in chapter 388-458 WAC, unless one or more of the conditions in WAC 388-825-150 applies, the department will take no action until there is a final decision on your appeal of the department's decision to:

(a) Terminate your eligibility for services;

(b) Reduce or terminate your services; ((~~or~~))

(c) Reduce or terminate the payment of SSP set forth in chapter 388-827 WAC; or

(d) Disenroll you from a DDD home and community based services waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver.

(3) The department will take no action until there is a final decision on your appeal of the department's decision to remove or transfer you to another residential service unless one or more of the conditions in WAC 388-825-150 applies.

(4) The department will take no action to terminate your provider of choice unless one or more of the circumstances described in WAC 388-825-150 applies.

(5) After the administrative hearing, you may have to pay back continued benefits you get, as described in chapter 388-410 WAC, if the administrative hearing decision is in favor of the department.

WSR 07-23-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-280—Filed November 8, 2007, 3:40 p.m., effective November 10, 2007, 12:01 a.m.]

Effective Date of Rule: November 10, 2007, 12:01 a.m.
 Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100Q and 220-47-41100U; and amending WAC 220-47-311 and 220-47-411.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A harvestable surplus of chum salmon remains in some areas of Puget Sound and indicates that days of fishing are warranted and will still meet conservation goals for the areas listed in this finding. There is insufficient time to promulgate 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 2, Amended 0, Repealed 2.

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

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

Date Adopted: November 8, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-47-31100R Purse seine—Open periods. It is unlawful to take, fish for, or possess salmon taken with purse seine gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas and during the periods provided for in each respective Management and Catch Reporting Area:

<u>AREA</u>	<u>TIME</u>	<u>DATE</u>
7, 7A:	7AM - 5PM with use of recovery box;	11/11, 11/12, 11/13, 11/14,
	7AM - 2:30PM without use of recovery box	11/15, 11/16, 11/17
7B:	7AM 11/12 - 4PM 11/16	

<u>AREA</u>	<u>TIME</u>	<u>DATE(S)</u>	<u>MINIMUM MESH</u>
6D:	Closed		
7, 7A:	Noon - Midnight	11/11, 11/12, 11/13, 11/14, 11/15, 11/16, 11/17	6 1/4"
Note: In Areas 7 and 7A it is unlawful to keep sockeye salmon in area 7, and 7A at all times.			
7B:	7AM 11/12 - 4PM 11/16		6 1/4"
	7AM 11/19 - 4PM 11/23		6 1/4"
	7AM 11/26 - 4PM 11/30		6 1/4"
	8AM 12/3 - 4PM 12/7		6 1/4"

<u>AREA</u>	<u>TIME</u>	<u>DATE</u>
	7AM 11/19 - 4PM 11/23	
	7AM 11/26 - 4PM 11/30	
	8AM 12/3 - 4PM 12/7	

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning at 12:01 a.m. on the last Monday in October and until 4:00 p.m. on the first Friday in December.

8:	7AM - 5PM	11/13
	7AM - 5PM	11/20
	7AM - 4PM	11/27
8A:	7AM - 5PM	11/12, 11/14, 11/20
	7AM - 4PM	11/26, 11/28
8D:	7AM - 5PM	11/14, 11/19, 11/20
	7AM - 4PM	11/28
10, 11:	Closed	
12, 12B:	7AM - 5PM	11/12
12C:	Closed	

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

Chinook salmon - at all times in Areas 7, 7A, 7B, 8, 8A, 8D, 10, 11, 12, 12B, and 12C.

Coho salmon - at all times in Areas 7, 7A, 10, and 11.

Sockeye salmon at all times.

Pink salmon at all times.

All other saltwater and freshwater areas - closed.

NEW SECTION

WAC 220-47-41100V Gill net—Open periods. It is unlawful to take, fish for, or possess salmon taken with gill net gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the seasons provided for in each respective fishing area:

<u>AREA</u>	<u>TIME</u>	<u>DATE(S)</u>	<u>MINIMUM MESH</u>
Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gill nets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and until 6:00 PM on the first Friday in December. It is unlawful to keep sockeye salmon in area 7B at all times.			
8:	7AM - 7PM	11/12, 11/14, 11/16, 11/19, 11/21, 11/23	6 1/4"
	7AM - 6PM	11/26, 11/28, 11/30	6 1/4"
8A:	7AM - 7PM	11/13, 11/15, 11/16, 11/19, 11/21, 11/23	6 1/4"
	7AM - 6PM	11/27, 11/29, 11/30	6 1/4"
8D:	7AM - 7PM	11/15, 11/16, 11/21, 11/23	6 1/4"
	7AM - 6PM	11/29, 11/30	6 1/4"
9A:	Closed		
10, 11:	Closed		
12, 12B:	Closed		
12C:	Closed		

All other saltwater and freshwater areas - closed.
 Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

REPEALER

The following sections of the Washington Administrative Code are repealed, effective 12:01 a.m. November 10, 2007:

- WAC 220-47-31100Q Purse seine—Open periods. (07-262)
- WAC 220-47-41100U Gill net—Open periods. (07-271)

**WSR 07-23-020
 EMERGENCY RULES
 DEPARTMENT OF
 SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed November 9, 2007, 9:22 a.m., effective November 9, 2007, 9:22 a.m.]

Effective Date of Rule: Immediately.

Purpose: The division of developmental disabilities (DDD) is proposing this emergency rule to amend chapter 388-828 WAC to ensure consistency with the legislature's request to collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services and remove the penalty for not reporting income information.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-828-1240, 388-828-1260 and 388-828-1280; amending WAC 388-828-1200, 388-828-1220, and 388-828-1300.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030].

Other Authority: Title 71A 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 emergency rule amends chapter 388-828 WAC to remove penalties for clients and their families that decline to provide income information when receiving the DDD assessment. Without this emergency rule, clients may be incorrectly found ineligible for services or benefits. This rule is also necessary to implement the conditions and limitations set by the legislature when appropriating funding for DDD programs in the Washington state's 2007-2009 budget (section 205, chapter 522, Laws of 2007). The legislature requested that DDD collect data on family income for families with minor children with developmental disabilities and all individuals who are receiving state-only funded services.

The department is extending the emergency rule filed as WSR 07-15-054. An initial public notice was filed June 29, 2007, as WSR 07-15-081. Stakeholder work is being completed and the rules are expected to be formally proposed in February 2008.

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 0, Repealed 0.

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

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

Date Adopted: November 6, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1200 ~~((Will DDD ask your family to disclose)) Who does DDD ask to disclose financial ((and dependent)) information? When administering the DDD assessment, DDD ((will only)) is required to ask for ((information regarding your family's)) annual gross income information ((and the number of household dependents when)) from:~~

- (1) Your family, if:
 - (a) You are age seventeen or younger; and
 - ~~((2))~~ (b) Your family has not made a request for your admission to a residential habilitation center (RHC)~~((-))~~, or
- (2) You, if:
 - (a) You are age eighteen or older, and
 - (b) You are receiving state-only funded services.

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1220 ~~Will DDD require ((your family to provide supporting documentation of their annual gross income and number of household dependents)) the reported annual gross income to be verified with supporting documentation? DDD accepts ((your family's)) a verbal report of annual gross income and does not require ((your family to provide)) supporting documentation ((of their annual gross income and number of household dependents)) to verify the reported information.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-828-1240 What does DDD do when family income and household dependent information are not provided?
- WAC 388-828-1260 What action will DDD take if your family does not report income and dependent information?
- WAC 388-828-1280 How will your access to, or receipt of, DDD HCBS waiver services be affected if your family does not report family income and dependent information?

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1300 ~~How will your access to, or receipt of, ((Medicaid personal care)) DDD paid services,~~

~~private duty nursing services, or SSP be affected if ((your family does not report family)) income ((and dependent)) information is not reported? Your access to, or receipt of, ((Medicaid personal care)) DDD paid services per ((chapter 388-106)) WAC 388-828-1440, Private duty nursing services for children seventeen years of age and younger per WAC 388-551-3000, or SSP per chapter 388-827 WAC is not affected if ((your family does not report)) income ((and dependent)) information is not reported.~~

WSR 07-23-029

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 07-277—Filed November 9, 2007, 12:22 p.m., effective November 10, 2007, 12:01 a.m.]

Effective Date of Rule: November 10, 2007, 12:01 a.m.

Purpose: Amend personal use rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: This rule will allow harvest of whitefish and other gamefish while continuing to restrict trout harvest on hatchery steelhead. A proposed rule change is included in the 2008-2009 sportfishing proposal package to adopt as permanent rules. There is insufficient time to promulgate 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 0.

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

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

Date Adopted: November 9, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900M ~~Exceptions to statewide rules—Cowlitz and Cispus rivers. Notwithstanding the~~

provisions of WAC 232-28-619, effective 12:01 a.m. November 10, 2007, until further notice:

(1) In waters of the Cowlitz River from the posted PUD sign on Peters Road to the Mouth of the Ohanepecosh and Muddy Fork, a person may fish for game fish and whitefish; except release trout, but two hatchery steelhead may be retained.

(2) In waters of the Cispus River from the mouth (posted markers at the Lewis County PUD kayak launch) upstream to the North Fork, a person may fish for game fish and white fish; except release trout, but two hatchery steelhead may be retained.

WSR 07-23-033
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-281—Filed November 11, 2007, 10:17 p.m., effective November 10, 2007, 12:01 a.m.]

Effective Date of Rule: November 10, 2007, 12:01 a.m.

Purpose: Amend personal use rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Hatchery escapement is expected to be met and surplus hatchery-origin coho are available for harvest. There is insufficient time to promulgate 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 0.

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

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

Date Adopted: November 9, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Cowlitz River. Notwithstanding the provisions of

WAC 232-28-619, effective 12:01 a.m. November 10, 2007, until further notice, in waters of the Cowlitz River above Cowlitz Falls Dam, special daily limit of six adult coho salmon; release wild coho.

WSR 07-23-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-283—Filed November 14, 2007, 4:21 p.m., effective November 15, 2007, 12:01 a.m.]

Effective Date of Rule: November 15, 2007, 12:01 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-31100R; and amending WAC 220-47-311.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: A harvestable surplus of chum salmon remains in some areas of Puget Sound and indicates that days of fishing are warranted and will still meet conservation goals for these areas. There is insufficient time to promulgate 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: November 14, 2007.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-47-31100S Purse seine—Open periods. It is unlawful to take, fish for, or possess salmon taken with purse seine gear for commercial purposes from Puget Sound, except in the following designated Puget Sound Salmon Management and Catch Reporting Areas and during the peri-

ods provided for in each respective Management and Catch Reporting Area:

AREA	TIME	DATE
7, 7A:	7AM - 5PM with use of recovery box; 7AM - 2:30PM without use of recovery box	11/15, 11/16, 11/17
7B:	7AM 11/12	- 4PM 11/16
	7AM 11/19	- 4PM 11/23
	7AM 11/26	- 4PM 11/30
	8AM 12/3	- 4PM 12/7

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning at 12:01 a.m. on the last Monday in October and until 4:00 p.m. on the first Friday in December.

8:	7AM - 5PM	11/20
	7AM - 4PM	11/27
8A:	7AM - 5PM	11/20
	7AM - 4PM	11/26, 11/28
8D:	7AM - 5PM	11/19, 11/20
	7AM - 4PM	11/28
10, 11:	Closed	
12, 12B:	7AM - 4PM	11/16
12C:	Closed	

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

- Chinook salmon - at all times in Areas 7, 7A, 7B, 8, 8A, 8D, 10, 11, 12, 12B, and 12C.
- Coho salmon - at all times in Areas 7, 7A, 10, and 11.
- Sockeye salmon at all times.
- Pink salmon at all times.
- All other saltwater and freshwater areas - closed.

REPEALER

The following sections of the Washington Administrative Code are repealed, effective 12:01 a.m. November 15, 2007:

WAC 220-47-31100R Purse seine—Open periods. (07-280)

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 07-23-055

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 07-282—Filed November 15, 2007, 4:27 p.m., effective November 16, 2007, 12:01 a.m.]

Effective Date of Rule: November 16, 2007, 12:01 a.m.

Purpose: Amend personal use rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Hatchery escapement is expected to be met and surplus hatchery-origin coho are available for harvest. There is insufficient time to promulgate 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 0.

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

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

Date Adopted: November 15, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-61900P Exceptions to statewide rules—Cispus and Tilton rivers. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. November 16, 2007, until further notice, in waters of the Cispus River from the mouth upstream to the North Fork, special daily limit of six adult coho salmon. Release wild coho.

(2) Effective 12:01 a.m. November 16, 2007 through December 31, 2007, in waters of the Tilton River from the mouth to West Fork, special daily limit of six adult coho salmon. Release wild coho.

WSR 07-23-056
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed November 16, 2007, 8:58 p.m., effective November 16, 2007, 8:58 p.m.]

Effective Date of Rule: Immediately.

Purpose: The department is amending WAC 388-310-1450 WorkFirst—WorkFirst pregnancy to employment and 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. These rule changes are necessary to comply with chapter 289, Laws of 2007 (2SSB 6016) exempting parents with an infant under age of one year from WorkFirst participation for a maximum of twelve months over the parent's lifetime.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-1450 and 388-310-0300.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, and 74.04.055.

Other Authority: 2SSB 6016, chapter 289, Laws of 2007.

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

Reasons for this Finding: This rule change will extend the emergency rule filed as WSR 07-16-021 on July 20, 2007. The rule is being concurrently amended through the permanent adoption process. The CR-101 was filed as WSR 07-11-116 on May 18, 2007. The CR-102 was filed as WSR 07-22-067 on November 2, 2007. The rule changes help to stabilize and promote a healthy family. The bill exempts parents with an infant under age of one year from WorkFirst participation for a maximum of twelve months over the parent's lifetime.

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 2, 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 2, 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: November 13, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-14-087, filed 6/28/02, effective 7/29/02)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) If I am a mandatory participant, when can I be exempted from participating in WorkFirst activities?

(a) You can claim an infant exemption from participating in WorkFirst activities during months that you are needed in the home to personally provide care for your child(ren) under (~~four months~~) one year of age.

(b) You or the other parent of your child, living in your household can claim (~~a one-time~~) this infant exemption from full-time participation(~~(, for one child only, if that child is between the age of four months and up to twelve months old. This means the parent who claims this exemption will only be required to participate part-time, up to twenty hours in certain activities described in WAC 388-310-1450))~~) for a maximum of twelve months in your lifetime.

(2) Can I participate in WorkFirst while I am exempt?

~~((a))~~ You may choose to participate in WorkFirst while you are exempt with a child under (~~four months~~) one year old. If you decide later to stop participating, and you still qualify for an exemption, you will be put back into exempt status with no financial penalty. For a description of participation activities see WAC 388-310-1450.

~~((b) You may choose to participate full time while you are taking your one-time/part-time exemption. If you decide later to stop participating full-time, and you still qualify for the part-time exemption, you will be put back into part-time exempt status with no financial penalty. For a description of participation activities see WAC 388-310-1450.))~~

(3) Does an exemption from participation affect my sixty-month time limit for receiving TANF or SFA benefits?

An exemption from participation does not affect your sixty-month time limit for receiving TANF or SFA benefits (described in WAC 388-484-0005). Even if exempt from participation, each month you receive a TANF/SFA grant counts toward your sixty-month limit.

AMENDATORY SECTION (Amending WSR 02-14-087, filed 6/28/02, effective 7/29/02)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on TANF and are pregnant or have a child under the age of (~~twelve months~~) one year, you are a participant in the pregnancy to employment pathway.

(2) What am I required to do while I am in pregnancy to employment?

You will receive an assessment from a DSHS social worker. Based on the results of the assessment you receive as a pregnancy to employment participant, you and your case manager/social worker will decide how you will be required to participate and which activities best meet your needs. The activities you are required to do will depend on where you are in the pregnancy or the age of your child.

(3) What am I required to do while I am pregnant?

(a) In the first and second trimester of pregnancy: Your participation is based upon the results of the assessment you receive and includes work, looking for work or a combination of pregnancy to employment services. You will be required to participate full-time during the first two trimesters of pregnancy unless you have a good reason to participate fewer hours (see WAC 388-310-1600).

(b) In the third trimester of pregnancy: Your participation is voluntary and may include meeting your medical needs.

(4) What am I required to do after my child is born?

~~((You are exempt from participation))~~ After the birth of your child, you may choose not to participate in WorkFirst activities ((and)) until your child reaches the age of ((four months)) one year. You may volunteer to participate in WorkFirst activities while you are exempt (see WAC 388-310-0300).

(5) ((Do I have to participate full-time once my child reaches age four months)) What if I have used my infant exemption?

~~((Once your child reaches four months old, you are required to participate full-time unless you qualify for the one-time exemption from full-time participation. This exemption is called a part-time exemption and you can only receive it once for one child who is between four and up to twelve months old))~~ If you have used your infant exemption and you have another child, you will be required (unless otherwise exempt) to participate full-time in one or more of the following activities:

(a) Work;

(b) Looking for work; or

(c) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(6) ((How do I qualify for the part-time exemption)) What services are provided in the pregnancy to employment pathway?

~~((Effective June 13, 2002, you can be exempt one-time only, from full-time participation, if you have a child age four months to twelve months old))~~ This pathway provides you with services, as available within your community, to help you learn how to work while still meeting your child's needs. You and your case manager or social worker will decide which of the variety of services you need, such as help finding:

(a) Parenting education or parenting skills training;

(b) Safe and appropriate child care;

(c) Good health care for yourself and your child;

(d) Mental health treatment;

(e) Alcohol or drug treatment;

(f) Domestic violence services; or

(g) Employment services.

If you are currently employed you will receive the assessment at your next individual responsibility plan review.

(7) ((If I qualify for the part-time exemption, what will I be required to do)) What determines which services I will receive and what my participation will be?

~~((You will have to participate part-time for up to twenty hours per week (per state law) until your child is reaches twelve months old. During this time, you will be required,~~

~~based upon the results of your assessment, to participate in one or more of the following:))~~

~~(a) ((Instruction or training to improve your parenting skills or child well-being (if available))) Your assessment results (see WAC 388-310-0700) determine the services that you will receive, as available within your community;~~

~~(b) ((Preemployment or job readiness training)) An individual responsibility plan will be developed jointly, by you and your case manager or social worker, that reflects participation and services available to meet your needs and the needs of your child; and~~

~~(c) ((High school completion or GED program;~~

~~(d) Volunteer in a child care facility licensed under chapter 74.15 RCW. The child care facility has to agree to accept you as a volunteer; or~~

~~(e) Volunteer to participate in job search or work activities full-time or part-time. If you change your mind about job search or work activities you will be required to participate up to twenty hours in one of the required activities listed above)) Follow up contact every three months to jointly reassess your needs and the services and activities you are participating in, until your child reaches age twelve months.~~

(8) ((What if I have used my one-time part-time exemption from full-time participation)) Will I be sanctioned if I refuse to participate in pregnancy to employment pathway?

~~((If you have used your one-time, part-time exemption and you have another child, when that child is between four months and twelve months old, you will be required to participate full-time in one or more of the following activities:))~~

~~(a) ((Work;)) If you are a pregnant woman in your third trimester of pregnancy or if you have an infant less than one year old you will not be sanctioned for not participating.~~

~~(b) ((Looking for work; or~~

~~(c) Preparing for work by participating in a combination of activities based upon the results of your assessment)) If you are in the first two trimesters of your pregnancy or have used your twelve-month infant exemption or you do not have a child under the age of one year, you are required to participate as allowed under WAC 388-310-0200. Failure to participate will subject you to WorkFirst sanction under WAC 388-310-1600.~~

(9) ((What services are provided in the pregnancy to employment)) What if I have a good reason not to participate?

~~((This pathway provides you with services, as available within your community, to help you learn how to work while still meeting your child's needs. You and your case manager will decide which of the variety of services you need, such as help finding:~~

~~(a) Parenting classes;~~

~~(b) Safe and appropriate child care;~~

~~(c) Good health care for yourself and your child; and/or~~

~~(d) Employment services.~~

~~(e) If you are currently employed you will receive the assessment at your next individual responsibility plan review.~~

~~(10) What determines which services I will receive and what my participation will be?~~~~(a) Your assessment results (see WAC 388-310-0700) determine the services, as available within your community, that you will receive;~~~~(b) An individual responsibility plan will be developed jointly that reflects participation and services available to meet your needs and the needs of your child; and~~~~(c) Follow up contact every three months to jointly reassess your needs and the services and activities you are participating in, until your child reaches age twelve months.~~~~(11) Will I be sanctioned if I refuse to participate in pregnancy to employment pathway?~~~~(a) If you are a pregnant woman in your third trimester of pregnancy or if you have an infant less than three months old you will not be sanctioned for not participating.~~~~(b) If you are in the first two trimesters of your pregnancy or have a child four months of age or older, you are required to participate and are subject to the WorkFirst sanction rules (see WAC 388-310-1600).~~~~(12) What if I have a child between the ages of four months and twelve months but I have a good reason not to participate?~~~~If you have a good reason not to participate and you claim good cause (WAC 388-310-1600(3)), your needs will be assessed as soon as possible, but no later than ninety days from your request. A good cause determination will establish if you will be required to participate and the types of services that will best meet your needs)) If you have a good reason not to participate and you claim good cause (WAC 388-310-1600(3)), your needs will be assessed as soon as possible, but no later than ninety days from your request. A good cause determination will establish if you will be required to participate and the types of services that will best meet your needs.~~**WSR 07-23-057****EMERGENCY RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed November 16, 2007, 9:01 a.m., effective November 16, 2007, 9:01 a.m.]

Effective Date of Rule: Immediately.

Purpose: To comply with the provisions of chapter 5, Laws of 2007 (2SSB 5093) which authorize medical assistance coverage for all children living in households with income at or below 250% of the federal poverty level (FPL). The law became effective July 22, 2007. This continues the emergency rule adopted under WSR 07-16-022 while the permanent rule-making process is completed.

Citation of Existing Rules Affected by this Order: Amending WAC 388-416-0015, 388-418-0025, 388-450-0210, 388-478-0075, 388-505-0210, 388-505-0211, 388-542-0010, 388-542-0020, 388-542-0050, and 388-542-0300.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, and 74.09.700.

Other Authority: Chapter 5, Laws of 2007 (2SSB 5093).

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: To be compliant with state law while the permanent rule-making process, initiated under WSR 07-11-098, is completed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 10, 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 10, Repealed 0.

Date Adopted: November 7, 2007.

Stephanie E. Schiller
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 07-24 issue of the Register.

WSR 07-23-058**EMERGENCY RULES
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed November 16, 2007, 9:03 a.m., effective November 16, 2007, 9:03 a.m.]

Effective Date of Rule: Immediately.

Purpose: The Washington state legislature adopted SSB 5244 (chapter 143, Laws of 2007), which implements changes required by the federal Deficit Reduction Act of 2005 (DRA). Division of child support (DCS) is developing new and amended rules as required in order to allow the Washington child support program to comply with the DRA under our state plan under Title IV-D of the federal Social Security Act. DCS filed emergency rules under WSR 07-16-023, effective July 22, 2007, and at the same time filed the preproposal statement of inquiry to start the regular rule-making process for these rules (WSR 07-10-116).

DCS has developed policies and procedures and revised the proposed rules as needed. The draft rules have gone out for review and DCS plans to file the CR-102, notice of proposed rule making, as soon as the review is over (we anticipate filing the CR-102 in November 2007). These emergency rules are necessary until the regular rule-making process is completed.

Citation of Existing Rules Affected by this Order: See Reviser's note below.

Statutory Authority for Adoption: Sections 1, 2, 3, 4, 5, 7, 8 and 9, chapter 143, Laws of 2007.

Other Authority: The Deficit Reduction Act of 2005 (Public Law 109-171).

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: DCS must have rules in effect under SSB 5244 (chapter 143, Laws of 2007), which implements the federal Deficit Reduction Act of 2005, in order to remain in compliance with its state plan under Title IV-D of the federal Social Security Act. SSB 5244 was effective July 22, 2007. DCS must have rules in effect, or risk loss of federal funds for noncompliance. DCS continues the regular rule-making process but was unable to finalize the adoption of the rules within the time limit of the first emergency rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 33, 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 4, Amended 33, Repealed 0.

Date Adopted: November 7, 2007.

Stephanie E. Schiller
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 08-01 issue of the Register.

WSR 07-23-059

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Management Services Administration)

[Filed November 16, 2007, 9:06 a.m., effective November 16, 2007, 9:06 a.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of the emergency filing of amended chapter 388-06 WAC, Background checks, is to comply with new statutes, chapter 387, Laws of 2007 (ESSB 5774) and chapter 410, Laws of 2007 (SHB 1333), impacting background check requirements for certain child care providers and children returning to their home; and to comply with the federal Adam Walsh Act of 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 388-06-0110, 388-06-0150, and 388-06-0160.

Statutory Authority for Adoption: RCW 43.43.832, 26.33.190, 26.44.030, 74.15.030.

Other Authority: Chapter 387, Laws of 2007; Adam Walsh Act of 2006.

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

Reasons for this Finding: Amendments to chapter 388-06 WAC, Background checks are needed due to changes in federal requirements and state statute. Permanent rule making could not be completed by the effective date of the federal requirements, July 1, 2007.

A notice to adopt permanent rules on this subject has been filed as WSR 07-11-097. The department is coordinating with DSHS administrations and stakeholders on the rule content and adoption. This filing extends the emergency filed as WSR 07-16-020.

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 3, 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 3, Repealed 0.

Date Adopted: November 7, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0110 Who must have background checks? The department requires background checks on individuals who will have unsupervised access to children or to individuals with a developmental disability in homes, facilities, or operations licensed, relicensed, or contracted by the department to provide care as required under chapter 74.15 RCW. The department requires background checks on the following people:

- (1) A person licensed, certified, or contracted by us to care for children (chapter 74.15 RCW and RCW 43.43.832);
- (2) A prospective or current employee for a licensed care provider or a person or entity contracting with us;

(3) A volunteer or intern with regular or unsupervised access to children who is in a home or facility that offers licensed care to children;

(4) A person who is at least sixteen years old, is residing in a foster home, relatives home, or child care home and is not a foster child;

(5) A person not related to the child who the court has approved placement as allowed in RCW 13.34.130;

(6) A relative other than a parent who may be caring for a child or an individual with a developmental disability;

~~((6))~~ (7) A person who regularly has unsupervised access to a child or an individual with a developmental disability;

~~((7))~~ (8) A provider who has unsupervised access to a child or individual with a developmental disability in the home of the child or individual with a developmental disability; and

~~((8))~~ (9) Prospective adoptive parents as defined in RCW 26.33.020.

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.

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0150 What does the background check cover? (1) The department must review the following records:

(a) Criminal convictions and pending charges based on identifying information provided by you. However, if you have lived in Washington State for less than three years prior to the check, the department must conduct a fingerprint based background check for you to have unsupervised access to children or to individuals with developmental disabilities.

(b) ~~((For children's administration, child protective service case file information (CAMIS) for founded reports of child abuse or neglect; and))~~ If the background check is being conducted for Children's Administration, it must also include:

(i) A review of child protective services case files information (CAMIS) or other applicable information system.

(ii) Administrative hearing decisions related to any DRL license that has been revoked, suspended, or denied.

(c) ~~((For children's administration, administrative hearing decisions related to any DLR license that has been revoked, suspended or denied))~~ If the background check is being conducted by Children's Administration for placement of a child in out-of-home care, including foster homes, adoptive homes, relative placements, and placement with other suitable persons under chapter 13.34 RCW, the department must check the following in addition to the requirements above for each person over eighteen years of age residing in the home:

(i) Child abuse and neglect registries in each state a person has lived in the five years prior to conducting the background check.

(ii) Washington state patrol (WSP) and federal bureau of investigation (FBI) fingerprint based background checks regardless of how long you have resided in Washington.

(2) The department may also review:
(a) Any civil judgment, determination or disciplinary board final decisions of child abuse or neglect.

(b) Law enforcement records of convictions and pending charges in other states or locations if:

(i) You have lived in another state.

(ii) Reports from other credible sources indicating a need to investigate another state's records.

~~((3) The department may review law enforcement records of convictions and pending charges in other states or locations if:~~

~~(a) You have lived in another state; and~~

~~(b) Reports from credible community sources indicate a need to investigate another state's records.~~

~~(4) If you have lived in Washington state less than three years immediately prior to your application to have unsupervised access to children or to individuals with a developmental disability, the department requires that you be fingerprinted for a background check with the Washington state patrol (WSP) and the Federal Bureau of Investigation (FBI), as mandated by chapter 74.15 RCW.)~~

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0160 Who pays for the background check? (1) Children's administration (CA) pays ~~((for))~~ the DSHS general administrative costs for background checks for foster home applicants, CA relative and other suitable caregivers, and CA adoptive home applicants.

(2) Children's administration pays ~~((for fingerprinting expenses))~~ the WSP and FBI-fingerprint processing fees for ~~((those))~~ foster home applicants ~~((and relatives))~~, CA relative and other suitable caregivers, CA adoptive home applicants, and other adults in the home who require fingerprinting under chapter 13.34 RCW.

(3) Children's administration does not pay ~~((for))~~ fingerprinting fees or expenses for employees, contractors, or volunteers associated with any other type of home or facility.

(4) The division of developmental disabilities pays for background checks for individuals seeking authorization to provide services to their clients.

WSR 07-23-060

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Management Services Administration)

[Filed November 16, 2007, 9:07 a.m., effective November 16, 2007, 9:07 a.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of the emergency filing of new rules of chapter 388-06 WAC, Background checks, is to comply with a new statute, chapter 387, Laws of 2007 (ESSB 5774), relating to DSHS employee background check rules. Chapter 387, Laws of 2007 (ESSB 5774) repeals the department of personnel (DOP) statute that requires DOP to adopt DSHS employee background check rules. DOP repealed

DSHS employee rules effective July 22, 2007. This filing includes new WAC 388-06-0600, 388-06-0605, 388-06-0610, 388-06-0615, 388-06-0620, 388-06-0625, 388-06-0630, 388-06-0635, and 388-06-0640.

Citation of Existing Rules Affected by this Order: Amending WAC 388-06-0010.

Statutory Authority for Adoption: RCW 43.43.832; chapter 387, Laws of 2007 (ESSB 5774).

Other Authority: RCW 43.20A.710, 43.43.830, 43.43.-842.

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: Amendments to chapter 388-06 WAC, Background checks are needed due to changes in statute. Permanent rule making could not be completed in time to ensure that DSHS employee background checks would continue to be conducted by July 22, 2007. A notice to adopt permanent rules on this subject has been filed as WSR 07-11-097. The department is coordinating with DSHS administrations and stakeholders on the rule content and adoption. The filing extends emergency rules filed as WSR 07-16-019.

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 9, Amended 1, 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 9, Amended 1, Repealed 0.

Date Adopted: November 7, 2007.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-18-025, filed 8/27/01, effective 10/1/01)

WAC 388-06-0010 What is the purpose of this chapter? (1) The purpose of this chapter is to establish rules for background checks conducted by children's administration (CA), and the division of developmental disabilities (DDD) at the department of social and health services (DSHS). The department does background checks on individuals who are licensed, certified, contracted, or authorized to care for or have unsupervised access to children and to individuals with a developmental disability. Background checks are conducted to find and evaluate any history of criminal convictions and child abuse or neglect.

(2) This chapter also defines when the one hundred twenty-day provisional hire is allowed by DSHS. WAC 388-06-0500 through 388-06-0540 apply to all DSHS administrations

(3) This chapter includes the background check requirements for DSHS employees and applicants seeking, working or serving in a covered position.

NEW SECTION

WAC 388-06-0600 Must the DSHS secretary or designee conduct background checks on all employees in covered positions and applicants under consideration for a covered position? (1) The secretary of the department of social and health services (DSHS) or designee must conduct a background check, which may include fingerprinting as authorized by statute, on all employees in covered positions and applicants under final consideration for a covered position.

(2) The requirement to conduct a background check must include the following:

(a) Any employee seeking a covered position because of a layoff, reallocation, transfer, promotion or demotion or otherwise requesting a move to a covered position.

(b) Any applicant prior to appointment to a covered position, except when appointment is made on a conditional basis in accordance with agency procedures authorized by WAC 388-06-0635.

(3) Applicant means any person who has applied for work or serves in a covered position, including current employees requesting transfer, promotion, demotion, or otherwise requesting a move to a covered position.

(4) Applicant means any person who has applied for work or serves in a covered position, including current employees requesting transfer, promotion, demotion, or otherwise requesting a move to a covered position.

NEW SECTION

WAC 388-06-0605 What is a covered position? A covered position is one in which a person will or may have unsupervised access to vulnerable adults, juveniles or children.

NEW SECTION

WAC 388-06-0610 Who are vulnerable adults, juveniles or children? (1) Vulnerable adult means a person who is a client of DSHS and/or is:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself;

(b) Found incapacitated under chapter 11.88 RCW;

(c) Developmental disabled as defined under RCW 71A.10.020;

(d) Admitted to any facility that is operated by DSHS;

(e) Receiving services from a DSHS contracted, authorized, certified, licensed or individual provider, including those certified under chapter 70.96A RCW;

(f) Receiving services through home health, hospice, or home care agencies required to be licensed under chapter 70.127 RCW; or

(g) Admitted to detoxification in a certified chemical dependency treatment facility in accordance with chapter 70.96A RCW.

(2) Juvenile means a person under the age of twenty-one under the juvenile rehabilitation administration's (JRA) jurisdiction, or under the department of corrections's jurisdiction while placed in a JRA facility.

(3) Child or children means any person under eighteen years of age.

NEW SECTION

WAC 388-06-0615 What is unsupervised access?

Unsupervised access means a DSHS employee, volunteer or student intern who:

(1) Works or serves in a setting, such as an institution, that provides residential services to vulnerable adults, juveniles and children;

(2) Works or serves in a position where, during the course of his or her employment, the employee may transport, or visit the residence of, a vulnerable adult, juvenile or child; or

(3) Works or serves in a position, other than one described in (1) and (2) above, where the employee may be left alone with a vulnerable adult, juvenile or child. "Left alone" does not include the possibility of a public encounter, or public interaction.

NEW SECTION

WAC 388-06-0620 What information is considered in a background check conducted by DSHS and what are the results of the background check used for? (1) The background check information considered by the DSHS secretary will include but is not limited to conviction records, pending charges, and civil adjudications as defined in RCW 43.43.830.

(2) The background information must be used by DSHS to determine the character, competence, and suitability of the applicant and/or employee to have unsupervised access to vulnerable adults, juveniles and children.

NEW SECTION

WAC 388-06-0625 Must an employee and/or applicant authorize the secretary of the department of social and health services or designee to conduct a background check and what happens if the employee or applicant does not provide authorization? (1) An employee and/or applicant applying for or being considered for retention in a covered position must authorize the secretary of DSHS or designee to conduct a background check which may include fingerprinting.

(2) Failure to authorize the DSHS secretary or designee to conduct a background check disqualifies an employee or applicant from consideration for any covered position including their current covered position.

NEW SECTION

WAC 388-06-0630 What happens when a permanent DSHS employee is disqualified because of a background check or failure to authorize a background check? (1) A permanent employee with a background check disqualifica-

tion or who fails to authorize a background check may be subject to any of the following actions in no specific order:

(a) Demotion;

(b) Job restructuring;

(c) Job reassignment;

(d) Non-disciplinary separation for non-represented employees;

(e) Disciplinary action in accordance with Just Cause for represented employees; or

(f) The employee may voluntarily resign.

(2) An appointing authority may use the following interim measures while deciding which action to take (not to exceed thirty calendar days except in cases where there are investigations of pending charges):

(a) Voluntary use of accrued vacation, exchange, and/or compensatory time;

(b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave; and/or

(c) Reassignment to another work location to present unsupervised access.

(d) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(3) Before a permanent employee may be separated or discharged due to a background check disqualification, the search for a non-covered position will occur over a period of thirty calendar days.

NEW SECTION

WAC 388-06-0635 What are the DSHS secretary's responsibilities in carrying out the requirements to conduct background checks? (1) The DSHS secretary or designee will:

(a) Notify employees and applicants that a background check is required for covered positions;

(b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

(c) Develop policies and procedures pertaining to background checks.

(d) Use information contained in a background check for the purpose of determining the character, competence, and suitability of the applicant and/or employee to have unsupervised access to vulnerable adults, juveniles and children.

(2) The DSHS secretary or designee will not further disseminate background check information unless authorized or required by law to do so. In addition, results of a background check may be discoverable pursuant to the rules of civil discovery, or subject to disclosure pursuant to a public records request.

NEW SECTION

WAC 388-06-0640 Does a DSHS permanent employee who is disqualified from a covered position as a result of a background check have the right to request a review of the disqualification? A DSHS permanent employee who is disqualified from a covered position as a result of a background check has the right to present the

DSHS secretary or designee evidence that may mitigate the disqualifying background information identified by the department. The permanent employee may present additional information for consideration that includes, but is not limited to:

- (1) The employee's background check authorization and disclosure form;
- (2) The employee's age at the time of conviction, charge, or disciplinary board final decision;
- (3) The nature and severity of the conviction, charge, or disciplinary board final decision;
- (4) The length of time since the conviction, charge, or disciplinary board final decision;
- (5) The nature and number of previous offenses;
- (6) Vulnerability of the child, vulnerable adult, or individual with mental illness or developmental disabilities to which the employee will or may have unsupervised access; and
- (7) The relationship between the potentially disqualifying event and the duties of the employee.

WSR 07-23-065

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed November 16, 2007, 3:53 p.m., effective November 16, 2007, 3:53 p.m.]

Effective Date of Rule: Immediately.

Purpose: Effective November 19, 2007, the United States Department of Agriculture (USDA) will allow Canadian cattle and bison born after March 1, 1999, to be imported into the United States. This rule establishes the entry, health, and testing requirements for domestic cattle entering Washington from outside the United States. This rule is necessary for the preservation of the public health, safety, and general welfare.

Citation of Existing Rules Affected by this Order: Amending WAC 16-54-032, 16-54-082, 16-54-083, and 16-54-085.

Statutory Authority for Adoption: RCW 16.36.010 and 16.36.040.

Other Authority: Chapter 34.05 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: Effective November 19, 2007, the USDA, Animal and Plant Health Inspection Service, Veterinary Services will allow Canadian cattle and bison born after March 1, 1999, to be imported into the United States as outlined in Title 9 of the Code of Federal Regulations (9 C.F.R., Part 93). The state of Washington will accept these animals if they meet the requirements of USDA and the requirements within this proposal.

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 4, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: November 16, 2007.

Valoria H. Loveland
Director

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-032 Certificate of veterinary inspection—Required information. (1) A certificate of veterinary inspection must contain the following information:

(a) An entry permit, when required, that includes the physical address of the premises of origin;

(b) Date of inspection;

(c) Names and addresses of the consignor and consignee;

(d) Shipment information, including:

(i) Origin of shipment;

(ii) Anticipated shipment date; and

(iii) Number of animals in the shipment;

(e) Certification that the animals are free from clinical signs or known exposure to any infectious or communicable disease;

(f) Test or vaccination status, when required;

(g) Description of each animal by:

(i) Identifying species;

(ii) Breed;

(iii) Age;

(iv) Sex of the animal;

(v) Color; and

(vi) Tag, tattoo, microchip, USDA-approved RFID (radio frequency identification device) ear tag, or other official method of identification, including ownership brands.

(2) All certificates of veterinary inspection must be reviewed by the animal health official of the state of origin and a copy must be immediately forwarded to:

Washington State Department of Agriculture

Animal Services Division

1111 Washington Street S.E.

P.O. Box 42577

Olympia, Washington 98504-2577.

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-082 Domestic bovine animals—Importation requirements. Import health requirements.

(1) Domestic bovine entering Washington state must have a certificate of veterinary inspection and an entry permit

issued by the office of the state veterinarian prior to entry. Entry permits are required on all feeder cattle entering restricted feedlots and are to be obtained by the brand inspector of the state of origin and recorded on the brand document.

(2) Before entering Washington state, Canadian cattle, including calves, must be identified on the right hip by a USDA "C[Lambda]N" brand (C^N).

Exemptions to import health requirements.

~~((2))~~ (3) A certificate of veterinary inspection is not required for domestic bovine that are:

- (a) Consigned to federally inspected slaughter plants for immediate slaughter; or
- (b) Consigned to state-federal approved livestock markets for sale for immediate slaughter only; or
- (c) Consigned to specifically approved livestock markets or restricted holding facilities where import requirements can be met; or
- (d) Consigned to a restricted feedlot.

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.

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.

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-083 Domestic and foreign bovine brucellosis requirements. (1) Female cattle, domestic and foreign, must have an official calfhood brucellosis vaccination and legible vaccination tattoo before entry into Washington state.

(a) Cattle vaccinated with strain 19 vaccine must be permanently identified with a tattoo in the right ear that must bear the USDA registered V shield preceded by a number indicating the quarter of the year in which they were vaccinated, followed by the last digit of the year of vaccination.

(b) Cattle vaccinated with RB-51 strain of vaccine must be permanently identified with a tattoo in the right ear that must bear the USDA registered V shield preceded by the letter R followed by the last digit of the year of vaccination.

(c) Brucellosis vaccinated cattle from foreign countries must present original vaccination certificates. On arrival, the cattle must be tattooed with the USDA V shield and the year indicated on the vaccination certificate.

(2) Mature vaccinated domestic bovine that are identified by a legible vaccination tattoo and USDA vaccination and USDA identification tags will be allowed entry into Washington state if the state of origin allows mature vaccination and is of the same brucellosis class or higher.

(3)(a) Test eligible dairy cattle from all states and all cattle from Class A states must be tested negative for bovine brucellosis within thirty days before entry.

(b) Beef cattle from selected brucellosis free states designated by the director may be required to have a negative test thirty days before entry.

(c) Test eligible bovine are bulls over six months of age, brucellosis vaccinated dairy females over twenty months of age, and brucellosis vaccinated beef breed females over twenty-four months of age.

(4) All animals must be identified by USDA approved official identification.

Exemptions to domestic bovine brucellosis test and vaccination requirements.

(5) Domestic bovine that are exempt from brucellosis testing and vaccination requirements are:

- (a) Those cattle from a class free state consigned to restricted feedlots;
- (b) Those consigned to federally inspected slaughter plants for immediate slaughter;
- (c) Heifer calves less than four months of age;
- (d) Slaughter only dairy breed cattle from Oregon, Idaho, and Montana that are consigned to a state-federal approved livestock market;
- (e) Bull calves less than six months of age;
- (f) Steers and spayed heifers;
- (g) Official brucellosis vaccinated dairy cattle less than twenty months of age;
- (h) Official brucellosis vaccinated beef cattle less than twenty-four months of age;
- (i) Cattle from a certified brucellosis free herd, as defined by Title 9 CFR Part 78.1; and
- (j) Test eligible beef breed cattle and dairy cattle that are consigned to a state or federally approved livestock market to meet entry testing requirements. Heifer calves between four and twelve months of age may be consigned to a state-federal approved sale yard where they will remain until meeting vaccination requirements.

(6) Adult cattle that have not met the department's brucellosis requirements may enter, with approval from the director, a WSDA-approved restricted holding facility in Washington state until testing and vaccination requirements have been met.

AMENDATORY SECTION (Amending WSR 07-14-056, filed 6/28/07, effective 7/29/07)

WAC 16-54-085 Domestic bovine tuberculosis requirements. (1) All domestic bovine from a modified accredited advanced or lower state must have a negative TB test within sixty days before entry into Washington state. Domestic bovine from a modified accredited or lower state shall be held separate and apart from native cattle for sixty days and retested negative at least sixty days after entry into Washington state.

(2) **Dairy cattle six months of age or older** must:

- (a) Test negative for bovine tuberculosis within sixty days before entering Washington state; and
- (b) Be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag.

(3) **Dairy heifers and bull calves less than six months of age** must:

- (a) Be issued a hold order or a quarantine order that requires the animals to be taken directly to a designated premises or facility;
- (b) Be held separate and apart from all other domestic bovine until they test negative for bovine tuberculosis after six months of age; and

(c) Be identified with a USDA silver identification ear tag, or a USDA-approved RFID tag, or an orange brucellosis vaccination tag.

(4) **Mexican cattle** - All cattle imported from Mexico that enter Washington, including those imported for rodeo or recreation purposes, must be sexually neutered and must bear official Mexican identification and brand before entry.

(a) All Mexican cattle must be accompanied by proof of two negative bovine tuberculosis tests conducted in the United States after entry from Mexico. The second negative test must be a minimum of sixty days after the first test and within thirty days before entry into Washington state.

(b) All Mexican cattle that remain in the state of Washington shall be tested annually for tuberculosis.

(c) If Mexican cattle entering Washington state are not accompanied by proof of two negative bovine tuberculosis tests prior to entry, they will be issued a hold order or a quarantine order that requires the animals to be taken directly to a designated premises or facility and kept separate and apart from Washington cattle until the completion of required tests.

(d) Sexually intact Mexican beef cattle may enter only with a prior entry permit and at the discretion of the director.

Exemptions to domestic bovine tuberculosis test requirements.

(5) **Dairy cattle** are exempt from bovine tuberculosis testing requirements if they:

(a) Originate from an accredited bovine tuberculosis-free herd, as defined by USDA, APHIS in Title 9 CFR Chapter 1 Part 77 (January 1, 2006), and if an accredited herd number and the date of the last bovine tuberculosis test are shown on the certificate of veterinary inspection;

(b) Are consigned to federally inspected slaughter plants for immediate slaughter; or

(c) Are consigned to slaughter through state and federally approved sale yards and remain in slaughter channels.

(6) **Adult ~~((dairy cows from Oregon and Idaho)) cattle~~** that have not met the department's ~~((brucellosis and))~~ tuberculosis requirements may enter, with approval from the director, a ~~((WSDA approved))~~ WSDA-approved ~~((brucellosis/tuberculosis))~~ restricted holding facility in Washington state until testing requirements have been met.

(7) **Dairy steers and spayed heifers** are exempt from bovine tuberculosis testing requirements before entry into Washington state if they are entering restricted feedlots to be fed for slaughter.

(8) **Mexican cattle** are exempt from the second bovine tuberculosis test and isolation requirements if their official Mexican identification remains intact and they are consigned to a federally inspected slaughter plant for immediate slaughter.

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

**WSR 07-23-066
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 07-284—Filed November 16, 2007, 3:44 p.m., effective November 23, 2007, 12:01 p.m.]

Effective Date of Rule: November 23, 2007, 12:01 p.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-36000E; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to promulgate 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: November 16, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-36000E Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. November 23 through 11:59 p.m. November 26, 2007, razor clam digging is allowed in Razor Clam Area 2 each day only.

2. Effective 12:01 p.m. November 23 through 11:59 p.m. November 24, 2007, razor clam digging is allowed in Razor Clam Area 1 and that portion Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation (Grays Harbor

County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

3. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. November 27, 2007:

WAC 220-56-36000E Razor clams—Areas and seasons.