

**WSR 08-03-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-01—Filed January 2, 2008, 2:59 p.m., effective January 4, 2008]

Effective Date of Rule: January 4, 2008.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-52-07300R; and amending WAC 220-52-073.

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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibition of all diving from licensed sea urchin harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: January 2, 2008.

J. P. Koenings  
 Director

**NEW SECTION**

**WAC 220-52-07300S Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective January 4, 2008 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 4, 2008. Sea Urchin Districts 3, 4, 6 and 7 are open only on Sunday through Friday of each week.

The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on Sunday through Friday of each week. Sea Urchin District 4 is open only on January 4, 2008. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines). In Sea Urchin District 4 it is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size in largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

(4) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel on Saturday of each week, except by written permission from the Director.

**REPEALER**

The following section of the Washington Administrative code is repealed, effective January 4, 2008:

WAC 220-52-07300R      Sea urchins. (07-308)

**WSR 08-03-015**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-03—Filed January 4, 2008, 3:50 p.m., effective January 7, 2008, 8:00 a.m.]

Effective Date of Rule: January 7, 2008, 8:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-52-04000N; and amending WAC 220-52-040.

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: Pot limit changes for the commercial crab fishery in the Puget Sound licensing district require the department to maintain commercial harvest allocation plans. 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 0, Amended 1, 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: January 4, 2008.

Phil Anderson  
for Jeff Koenings  
Director

NEW SECTION

**WAC 220-52-04000S Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts.** Notwithstanding the provisions of WAC 220-52-040:

1) Effective immediately until further notice, no commercial crab pots are allowed to be set, pulled or fished west of the longitude line 123°7.0' projected from the southern shoreline of Dungeness Spit due south to the shore of Dungeness Bay.

2) Effective immediately until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license, per buoy tag number, in Crab Management Region 1 (which includes Marine Fish Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B).

3) Effective 8:00 a.m. January 7, 2008 until further notice, the following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits:

a. 20 pots in Marine Fish-Shellfish Management and Catch Reporting Area 25E.

b. 20 pots in all waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A south of a line projected true west from Travis Spit on Miller Peninsula.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. January 7, 2008:

WAC 220-52-04000N Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. (07-269)

**WSR 08-03-018  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 08-02—Filed January 7, 2008, 3:01 p.m., effective January 7, 2008, 3:01 p.m.]

Effective Date of Rule: Immediately.  
Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Z.

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 emergency regulation is necessary to revert to 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 0, Amended 0, Repealed 1.

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

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

Date Adopted: January 7, 2008.

J. P. Koenings  
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900Z Exceptions to statewide rules—Cowlitz, Elochoman, Green, Kalama, Lewis, North Fork Lewis, North Fork Toutle, Toutle and Washougal rivers. (07-227)

**WSR 08-03-033  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 08-04—Filed January 8, 2008, 2:56 p.m., effective January 9, 2008]

Effective Date of Rule: January 9, 2008.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300S; and amending WAC 220-52-073.

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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibition of all diving from licensed sea urchin harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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: January 8, 2008.

Phil Anderson  
for Jeff Koenings  
Director

#### NEW SECTION

**WAC 220-52-07300T Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective January 9, 2008 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins:

(a) Sea Urchin Districts 1 and 2 are open only on Sunday through Friday of each week. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(b) Sea Urchin District 4 is open only on January 9, 2008. On January 9, 2008, the maximum daily landing of red sea urchins from Sea Urchin District 4 is 2,300 pounds per commercially licensed sea urchin harvest vessel. In Sea Urchin District 4 it is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size in largest test diameter exclusive of spines).

(2) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 10, 2008. Sea Urchin Districts 3, 4, 6 and 7 are open only on Sunday through Friday of each week.

The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

(4) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel on Saturday of each week, except by written permission from the Director.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective January 9, 2008:

WAC 220-52-07300S Sea urchins. (08-01)

#### **WSR 08-03-036**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed January 9, 2008, 8:38 a.m., effective January 9, 2008, 8:38 a.m.]

Effective Date of Rule: Immediately.

Purpose: The health and recovery services administration (HRSA) is creating new WAC 388-505-0230 Family-related institutional medical, to codify institutional medical eligibility for clients who are categorically related to the temporary assistance for needy families (TANF) program. This rule-making action will bring the state into compliance with federal regulations. This rule will also clarify program rules for children admitted to medical facilities and psychiatric inpatient treatment.

Statutory Authority for Adoption: RCW 74.04.055, 74.04.057, 74.08.090, and 74.09.530.

Other Authority: 42 C.F.R. 441.151.

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: This rule will bring the state into compliance with federal regulations while the permanent rule-making process, initiated under WSR 07-12-031 on May 30, 2007, is completed. HRSA will be sending a draft out for stakeholder comment by the first of February. This continues the emergency rule adopted under WSR 07-19-032 on September 12, 2007.

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

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

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

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

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

Date Adopted: January 4, 2008.

Stephanie E. Schiller  
Rules Coordinator

#### NEW SECTION

**WAC 388-505-0230 Family related institutional medical.** This section describes how the department determines eligibility for institutional medical benefits for temporary assistance for needy families (TANF)-related clients and children under the age of twenty-one who reside in a medical institution or a psychiatric or chemical dependency facility.

(1) An individual over the age of twenty-one is eligible for categorically needy (CN) family-related institutional medical assistance when the individual:

(a) Meets U.S. citizenship or immigrant status as described in WAC 388-424-0010 (1) or (2);

(b) Meets the state residency requirement as described in chapter 388-468 WAC;

(c) Provides a valid social security number as described in chapter 388-476 WAC;

(d) Meets TANF eligibility requirements as described in WAC 388-400-0005, except for the requirement to participate in the Workfirst program under chapter 388-310 WAC;

(e) Has countable income below the applicable TANF payment standard based upon household size to include the institutionalized individual;

(f) Meets institutional status as described in WAC 388-513-1320 and resides in a medical institution, intermediate care facility for mentally retarded (ICF/MR), hospice care center, state veteran's facility, or nursing home; and

(g) Participates available income towards the cost of care as described in WAC 388-513-1380.

(2) An individual over the age of twenty-one is not eligible for family-related institutional medical assistance when the individual resides in a psychiatric facility, unless the individual is:

(a) A Medicaid recipient or has submitted an application for medical benefits prior to the individual's twenty-first birthday; and

(b) Receiving active psychiatric treatment and the treatment extends beyond the twenty-first birth date but the individual has not yet reached the age of twenty-two. (Eligibility in this circumstance terminates when the individual discharges from the facility or on the individual's twenty-second birthday, whichever happens first.)

(3) An individual over the age of twenty-one with income in excess of the TANF payment standard is not eligible for medically needy (MN) family-related institutional medical assistance.

(4) An individual aged nineteen through twenty-one is eligible for CN medical assistance under the family-related institutional medical program when the individual:

(a) Meets the requirements in subsection (1)(a),(b), and (c);

(b) Resides in a medical facility as described in subsection (1)(f), a psychiatric facility (IMD) or a chemical dependency facility;

(c) Has countable income below the one-person TANF standard; and

(d) Participates toward the cost of their care as described in WAC 388-513-1380.

(5) An individual aged eighteen through twenty-one with countable income below the payment standard described in WAC 388-478-0040 may be eligible for general assistance cash assistance for the individual's personal needs allowance.

(6) An individual under the age of nineteen is eligible for CN medical assistance under the family-related institutional medical program when the individual:

(a) Meets the requirements in subsection (1)(a), (b), and (c);

(b) Resides in a medical facility as described in subsection (1)(f), a psychiatric facility (IMD) or a chemical dependency facility;

(c) Has countable income below the applicable standard described in WAC 388-505-0210; and

(d) Participates toward the cost of their care as described in WAC 388-513-1380.

(7) When an individual under the age of twenty-one resides or is expected to reside thirty days or longer in a medical institution, intermediate care facility for the mentally retarded (ICF/MR), hospice care center or nursing facility, only the parental income the parent chooses to contribute is considered available.

(8) When an individual resides in a psychiatric facility or chemical dependency facility, parental income is considered as follows:

(a) It is available to an individual seventeen years of age or younger unless:

(i) The individual is expected to reside outside of the home for ninety days or longer; or

(ii) The individual is in court-ordered, out-of-home care in accordance with chapter 13.34 RCW; or

(iii) The department determines the parents are not exercising responsibility for the care and control of the individual.

(b) Parental income is considered available only as contributed to an individual over seventeen years of age but under nineteen who resides or is expected to reside in a psychiatric facility for thirty days or longer; and

(c) Parental income is not considered available to an individual between nineteen and twenty-one years of age who resides or is expected to reside in a psychiatric facility or chemical dependency facility for thirty days or longer.

(9) An individual under the age of twenty-one is considered for medically needy (MN) family-related institutional medical when the individual's countable income exceeds the standards in WAC 388-505-0210.

(10) A TANF-related individual who is not expected to reside in a medical facility for thirty days or longer is not eligible for family-related institutional medical. The individual's eligibility will be considered for a non-institutional medical program as described in WAC 388-505-0210, 388-505-0211, or 388-505-0220.

**WSR 08-03-037**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-05—Filed January 9, 2008, 10:43 a.m., effective January 9, 2008, 10:43 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-510.

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 was inadvertently left out of the permanent rule package and is 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 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: January 9, 2008.

J. P. Koenings  
 Director

NEW SECTION

**WAC 220-56-51000B Game fish possession limits and size limits.** Notwithstanding the provisions of WAC 220-56-510, effective immediately until further notice, the daily limit for Tiger Muskellunge (Musky) is one fish with a 36-inch minimum size limit.

**WSR 08-03-041**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)

[Filed January 10, 2008, 9:45 a.m., effective January 25, 2008]

Effective Date of Rule: January 25, 2008.

Purpose: To update requirements for a midcertification review to be considered complete for temporary assistance

for needy families (TANF) and state family assistance (SFA). The changes are necessary to meet federal work verification requirements under Public Law 109-171 and the TANF interim final rules issued on June 29, 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Other Authority: Title 45 CFR, Part 261.2 as published in Federal Register on June 29, 2006.

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

Reasons for this Finding: The rule change under this filing is necessary to meet work verification requirements of the Deficit Reduction Act for employed TANF households. Federal regulations require the department to verify this information every six months beginning in October 2007. The emergency rule went into effect on September 28, 2007, as WSR 07-20-061 and will expire on January 26, 2008. The department filed a CR-103 permanent rule on December 28, 2007, as WSR 08-02-053. The permanent rule will supersede this emergency rule when the permanent rule becomes effective February 1, 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 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: January 7, 2008.

Stephanie E. Schiller  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-24-025 and 07-01-023, filed 11/29/06 and 12/8/06, effective 10/1/07)

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

(2) If you receive cash assistance, family-related medical, or Basic Food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

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

- (i) Only receive Refugee Cash Assistance as described under WAC 388-400-0030; or
- (ii) Have a review period of six months or less.
- (b) You **do not** have to complete a mid-certification review for Basic food if:
  - (i) Your assistance unit has a certification period of six months or less; or
  - (ii) All adults in your assistance unit are elderly or disabled and have no earned income.
- (3) **When we send the review form:**

If you must complete a MCR...	We send your review form...
(a) For one program such as Basic Food or Family Medical.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(c) For Basic Food and another program when either program has a certification or review period between six and twelve months.	In the fifth month of your Basic Food certification period when you receive Basic Food and another program. You must complete your review by the 10th day of month six of your Basic Food certification.

- (4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review in ~~(on one)~~ one of the following ways:
  - (a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:
    - (i) ~~(Complete [Complete])~~ Complete the review form, telling us about changes in your circumstances we ask about;
    - (ii) Sign and date the form;
    - (iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;
    - (iv) If you receive family medical benefits, give us proof of your income even if it has not changed; ~~((and))~~
    - (v) If you receive Temporary Assistance for Needy Families and you are working or self employed, you must give us proof of your income even if it has not changed; and
    - (vi) Mail or turn in the completed form and any required proof to us by the due date on the review.
  - (b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:
    - (i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;
    - (ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

- (ii) If you receive family medical benefits, give us proof of your income even if it has not changed;
- (iv) If you receive Temporary Assistance for Needy Families and you are working or self employed, you must give us proof of your income ~~((and the hours you work))~~ even if it has not changed; and
- (v) Mail or turn in any required proof to us by the due date on the review.
- (c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.
  - (5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you ten days notice before we change your benefits.
  - (6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.
  - (7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:
    - (a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.
    - (b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

**WSR 08-03-055  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 08-06—Filed January 11, 2008, 2:18 p.m., effective January 13, 2008]

Effective Date of Rule: January 13, 2008.  
 Purpose: Amend commercial fishing rules.  
 Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300T; and amending WAC 220-52-073.  
 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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within

Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibition of all diving from licensed sea urchin harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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: January 11, 2008.

J. P. Koenings  
Director

#### NEW SECTION

**WAC 220-52-07300U Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective January 13, 2008 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on Sunday through Friday of each week. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(2) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 14, 2008. Sea Urchin Districts 3, 4, 6 and 7 are open only on Sunday through Friday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

(4) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel on Saturday of each week, except by written permission from the Director.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective January 13, 2008:

WAC 220-52-07300T Sea urchins. (08-04)

#### **WSR 08-03-063 EMERGENCY RULES DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 14, 2008, 1:30 p.m., effective January 14, 2008, 1:30 p.m.]

Effective Date of Rule: Immediately.

Purpose: The division of developmental disabilities (DDD) is filing this emergency rule to extend the emergency rule filed as WSR 07-20-060. This rule is necessary to ensure consistent application of the rules across the programs administered by DDD.

Citation of Existing Rules Affected by this Order: Amending WAC 388-845-1605.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030], 71A.12.120.

Other Authority: Title 71A RCW.

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: These emergency rules extend the emergency rules filed as WSR 07-20-060 as the department proceeds to adopt the rules on a permanent basis. A public hearing was held on January 8, 2008, and the rules will become permanent no later than February 29, 2008. Based on legislative action, this amendment is necessary to ensure consistency across programs administered by DDD. Without this rule, clients may incorrectly be found eligible or ineligible for services or benefits.

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

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

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

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

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

Date Adopted: January 9, 2008.

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

**WAC 388-845-1605 Who is eligible to receive respite care?** ~~((The person providing your care is))~~ You are eligible to receive respite care if you are in the Basic, Basic Plus or CORE waiver and:

(1) You live in a private home ~~((with an unpaid caregiver))~~ and no one living with you is paid to be your caregiver; ((or))

- (2) You live with a paid caregiver who is(~~(a)~~ ~~A natural, step or adoptive parent;~~ ~~(b))~~ your natural, step or adoptive parent; or

(3) You live with a caregiver who is paid by DDD to provide care to you and is:

- (a) A contracted companion home provider; or
- ~~((a))~~ (b) A licensed children's foster home provider.

**WSR 08-03-074**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-08—Filed January 14, 2008, 3:46 p.m., effective January 17, 2008]

Effective Date of Rule: January 17, 2008.

Purpose: Amend fishing 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: The Marblemount Hatchery facility has approximately 50% of the egg take requirements that are needed to achieve the 229,000 hatchery steelhead smolt release target. The closure of the fishery is necessary in order to collect sufficient fish to meet egg take needs. 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: January 14, 2008.

Loreva M. Preuss  
for Jeff Koenings  
Director

NEW SECTION

**WAC 232-28-61900X Exceptions to statewide rules—Cascade River (Skagit Co.)** Notwithstanding the provisions of WAC 232-28-619, effective January 17, 2008

until further notice, those waters of the Cascade River from the mouth upstream to Rockport-Cascade Road are closed to fishing.

**WSR 08-03-075**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-10—Filed January 14, 2008, 3:48 p.m., effective January 14, 2008, 3:48 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend fishing rules.

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

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: The Kendall Creek Hatchery has met broodstock needs from returning hatchery winter steelhead to meet basin [basic] production goals. 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 0, Amended 0, Repealed 1.

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

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

Date Adopted: January 14, 2008.

Loreva M. Preuss  
for Jeff Koenings  
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900Q	Exceptions to statewide rules—North Fork Nooksack River. (07-291)
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**WSR 08-03-076**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-07—Filed January 14, 2008, 4:14 p.m., effective January 18, 2008, 12:01 p.m.]

Effective Date of Rule: January 18, 2008, 12:01 p.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000G; 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: January 14, 2008.

Loreva M. Preuss  
for Jeff Koenings  
Director

NEW SECTION

**WAC 220-56-36000G 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. January 18 through 11:59 p.m. January 21, 2008, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. January 19 through 11:59 p.m. January 20, 2008, 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 Copalis River

(Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. 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.

**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.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 22, 2008:

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

**WSR 08-03-079**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-11—Filed January 15, 2008, 2:31 p.m., effective January 16, 2008]

Effective Date of Rule: January 16, 2008.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300U; and amending WAC 220-52-073.

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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin Districts 3 and 4 when those vessels have red sea urchin on-board discourages the taking of red urchins from the districts (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibition of all diving from licensed sea urchin harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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: January 15, 2008.

J. P. Koenings  
Director

NEW SECTION

**WAC 220-52-07300V Sea urchins.** Notwithstanding the provisions of WAC 220-52-073, effective January 16, 2008 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on Sunday through Friday of each week. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(2) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 16, 2008. Sea Urchin Districts 3, 4, 6 and 7 are open only on Sunday through Friday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin Districts 3 and 4 when the vessel has red sea urchins on-board.

(4) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel on Saturday of each week, except by written permission from the Director.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 16, 2008:

WAC 220-52-07300U Sea urchins. (08-06)

**WSR 08-03-094**

**EMERGENCY RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed January 17, 2008, 10:41 a.m., effective January 25, 2008]

Effective Date of Rule: January 25, 2008.

Purpose: This action is necessary because the department did not provide sufficient notice to stakeholders, as required by the Administrative Procedure Act (APA), of changes to WAC 388-544-0250 that eliminated certain covered services as then set forth in new WAC 388-544-0475 Noncovered services, eyeglasses, and contact lenses.

The department also filed CR-101 as WSR 07-10-125 to begin the permanent rule-making process for the noncovered

services, eyeglasses, and contact lenses portion of chapter 388-544 WAC to correct this matter.

Citation of Existing Rules Affected by this Order: Amending WAC 388-544-0475.

Statutory Authority for Adoption: RCW 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or 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: To bring the department into compliance with state law (Administrative Procedure Act). This continues the emergency rule that is currently in effect under WSR 07-20-043 while the department completes the permanent rule-making process begun under WSR 07-10-125. The department anticipates filing the permanent rule proposal (CR-102) by 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 1, Repealed 0.

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

Date Adopted: January 14, 2008.

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-13-038, filed 6/6/05, effective 7/7/05)

**WAC 388-544-0475 Vision care—Noncovered services, eyeglasses, and contact lenses.** ~~((The medical assistance administration (MAA) does not cover the following:~~

- ~~(1) Executive style eyeglass lenses;~~
- ~~(2) Bifocal contact lenses;~~
- ~~(3) Daily and two week disposable contact lenses;~~
- ~~(4) Extended wear soft contact lenses, except when used as therapeutic contact bandage lenses or for aphakic clients;~~
- ~~(5) Services for cosmetic purposes only;~~
- ~~(6) Glass lenses including those that darken when exposed to light;~~
- ~~(7) Group vision screening for eyeglasses;~~
- ~~(8) Nonflare or anti-reflective lenses;~~
- ~~(9) Orthoptics and visual training therapy;~~
- ~~(10) Progressive lenses;~~
- ~~(11) Refractive surgery of any type that changes the eye's refractive error. The intent of the refractive surgery procedure is to reduce or eliminate the need for eyeglass or contact lens~~

corrections. This does not include intraocular lens implantation following cataract surgery.

~~(12) Sunglasses and accessories that function as sunglasses (e.g., "clip-ons");~~

~~(13) Upgrades at private expense to avoid MAA's contract limitations (e.g., frames that are not available through MAA's contract or noncontract frames or lenses for which the client or other person pays the difference between MAA's payment and the total cost))) Reserved.~~