

WSR 08-06-019
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 22, 2008, 8:58 a.m., effective February 22, 2008, 8:58 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, WAC 388-832-0001 through 388-832-0470.

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 07-22-019 while the department obtains input and feedback from the affected stakeholders. The final rules will be proposed by March 31, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 90, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 90, Amended 0, Repealed 0.

Date Adopted: February 14, 2008.

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.

ELIGIBILITY

NEW 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 388-832-0045 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 program 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 qualify for the IFS program if you meet the eligibility criteria in WAC 388-832-0115.

NEW SECTION

WAC 388-832-0091 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will that funding continue until my next assessment? If you currently receive funding from the traditional family support (TFS) program, the family support opportunity (FSO) program or the family support pilot (FSP) program, you will continue to receive funding under the TFS, FSO, or the FSP program until your next DDD assessment.

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.

ASSESSMENTNEW 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 at which 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 at which 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 divi-

sion 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 are 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.

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.

GRANTSNEW 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 APPEALSNEW 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 08-07-002**EMERGENCY RULES****DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-39—Filed March 5, 2008, 2:38 p.m., effective March 5, 2008, 2:38 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000T and 220-52-04600Q; and amending WAC 220-52-046.

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: Closed areas represent the intent of 2007-2008 state-tribal management agreements. 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 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: March 5, 2008.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-04600T Coastal crab seasons. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided for in this section.

(1) From the Washington/Oregon border to the U.S./Canada border including Grays Harbor, Willapa Bay and the Columbia River are open with the following exceptions:

(a) The Quinault Primary Special Management Area (PSMA) is closed to fishing for Dungeness crab until further notice. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:

Northeast Corner (Raft River):	47°28.00 N. Lat.	124°20.70 W. Lon.
Northwest Corner:	47°28.00 N. Lat.	124°34.00 W. Lon.
Southwest Corner:	47°08.00 N. Lat.	124°24.75 W. Lon.
Southeast Corner (Copalis River):	47°08.00 N. Lat.	124°11.20 W. Lon.

(b) The Quileute Special Management Area (SMA) is closed to fishing for Dungeness crab until 8:00 a.m. May 1, 2008. The Quileute SMA is described as the area from Cape Johnson to Destruction Island shoreward of a line approximating 30 fathoms according to the following points.

- Northeast Corner; Cape Johnson, 47°58.00 - 124°40.40
- Northwest Corner; 47°58.00 - 124°49.00
- Southwest Corner; 47°40.50 - 124°40.00
- Southeast Corner; Destruction Island, 47°40.50 - 124°24.43

(2) All other provisions of the permanent rule remain in effect.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04000T	Commercial crab fishery. Lawful and unlawful gear, Methods and other unlawful acts. (08-14)
WAC 220-52-04600Q	Coastal crab seasons. (08-14)

**WSR 08-07-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-40—Filed March 6, 2008, 4:24 p.m., effective March 15, 2008]

Effective Date of Rule: March 15, 2008.
Purpose: Amend fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-23000G; and amending WAC 220-56-230 and 220-56-250.

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: Depth restrictions adopted in 2006 and in place in 2007 have been effective in avoiding early canary and yelloweye rockfish harvest guideline attainment. Based on the success of last year's management measures, the Pacific Council adopted the same management measures for 2008 that were in place for 2006 and 2007. 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 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: March 6, 2008.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-23000G Bottomfish closed areas. Notwithstanding the provisions of WAC 220-56-230, WAC 220-56-235 and WAC 220-56-250, effective 12:01 a.m. March 15 through June 15, 2008, in Marine Catch Area 2, it is unlawful to fish for or possess bottomfish, except sablefish and Pacific cod for personal use seaward of a line approximating the 30-fathom depth contour, as defined by the following coordinates:

47°31.70'N lat.	124°37.03'W long.;
47°25.67'N lat.	124°34.79'W long.;
47°12.82'N lat.	124°29.12'W long.;
46°52.94'N lat.	124°22.58'W long.;
46°44.18'N lat.	124°18.00'W long.;
46°38.17'N lat.	124°15.88'W long.

NEW SECTION

WAC 220-56-25000I Lingcod—Areas and seasons. Notwithstanding the provisions of WAC 220-56-250, effective 12:01 a.m. March 15, 2008, until further notice, a person may fish for and possess lingcod for personal use in Catch Record Areas 1, 2, and 3.

REPEALER

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

WAC 220-56-23000G Bottomfish closed areas.

WSR 08-07-017
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-41—Filed March 7, 2008, 2:59 p.m., effective March 9, 2008,
6:00 a.m.]

Effective Date of Rule: March 9, 2008, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100K; and amending WAC 220-52-071.

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 sea cucumbers are available in the sea cucumber districts listed. Prohibition of all diving from licensed sea cucumber harvest vessels within one day of scheduled 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: March 7, 2008.

Phil Anderson
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-07100L Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea

cucumbers for commercial purposes except as provided for in this section:

(1) Effective 6:00 a.m. March 9, 2008, until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Sunday through Friday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber 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 6:00 a.m. March 9, 2008:

WAC 220-52-07100K Sea cucumbers. (08-22)

WSR 08-07-018
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed March 7, 2008, 3:07 p.m., effective March 7, 2008, 3:07 p.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; and amending WAC 388-828-1200, 388-828-1220, and 388-828-1300.

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: 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. This rule was formally proposed on February 15, 2008, as WSR 08-05-097.

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: February 29, 2008.

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 08-07-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-42—Filed March 7, 2008, 3:59 p.m., effective March 10, 2008, 6:00 p.m.]

Effective Date of Rule: March 10, 2008, 6:00 p.m.

Purpose: The purpose of this rule making is to provide for treaty Indian fishing opportunity in the Columbia while protecting salmon listed as threatened or endangered under the Endangered Species Act. This rule making implements federal court orders governing Washington's relationship with treaty Indian tribes and federal law governing Washington's relationship with Oregon.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100S; and amending WAC 220-32-051.

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

Other Authority: *United States v. Oregon*, Civil No. 68-513-KI (D. Or.), Order Adopting 2005-2007 Interim Management Agreement For Upriver Chinook, Sockeye, Steelhead, Coho & White Sturgeon (May 11, 2005) (Doc. No. 2407); *Puget Sound Gillnetters Ass'n v. Moos*, 92 Wn.2d 939, 603 P.2d 819 (1979); 40 Stat. 515 (Columbia River compact).

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

Reasons for this Finding: Closes the tribal winter season fishery. The guidelines for sturgeon in the John Day pool are expected to be achieved. Sturgeon sales were previously closed for Bonneville and The Dalles pools. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 1; 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: March 7, 2008.

Phil Anderson
for Jeff Koenings
Director

REPEALER

The following section of the Washington Administrative Code is repealed, effective 6:00 p.m. March 10, 2008:

WAC 220-32-05100S Columbia River salmon seasons above Bonneville. (08-38)

**WSR 08-07-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-43—Filed March 10, 2008, 4:09 p.m., effective March 12, 2008]

Effective Date of Rule: March 12, 2008.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100L; and amending WAC 220-52-071.

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 sea cucumbers are available in the sea cucumber districts listed. Prohibition of all diving from licensed sea cucumber harvest vessels within one day of scheduled 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: March 10, 2008.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-07100M Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective March 12, 2008 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Districts 1 and 5 on Sunday through Friday of each week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 2 on Thursday, March 13 and Friday, March 14, 2008 only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective March 12, 2008:

WAC 220-52-07100L Sea cucumbers. (08-41)

**WSR 08-07-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 08-47—Filed March 11, 2008, 1:11 p.m., effective March 11, 2008, 1:11 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100M; and amending WAC 220-52-071.

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 sea cucumbers are available in the sea cucumber districts listed. Prohibition of all diving from licensed sea cucumber harvest vessels within one day of scheduled 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: March 11, 2008.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-07100N Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective March 12, 2008 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Districts 1 and 5 on Sunday through Friday of each week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 2 on Thursday, March 13 and Friday, March 14, 2008 only.

(3) It is unlawful to dive for any purpose from a commercially licensed sea cucumber 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:

WAC 220-52-07100M Sea cucumbers. (08-43)

WSR 08-07-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-44—Filed March 11, 2008, 1:27 p.m., effective April 1, 2008]

Effective Date of Rule: April 1, 2008.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000C; and amending WAC 220-56-350.

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 needed because surveys indicate that the clam population will support an extended season in 2008. 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: March 11, 2008.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-35000C Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

(1) Dosewallips State Park: Open April 1 until further notice.

REPEALER

The following section of the Washington Administrative Code is repealed, effective May 1, 2008:

WAC 220-56-35000C Clams other than razor clams—Areas and seasons.

WSR 08-07-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-48—Filed March 13, 2008, 1:49 p.m., effective March 15, 2008, 12:01 a.m.]

Effective Date of Rule: March 15, 2008, 12:01 a.m.

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 closure date for retention of sturgeon was adopted because Washington and Oregon fish managers estimate that the harvest guideline of 100 fish was exceeded on March 9, 2008. 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: March 13, 2008.

J. P. Koenings
 Director

NEW SECTION

WAC 232-28-61900J Exceptions to statewide rules—Columbia River sturgeon. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. March 15, 2008, until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from The Dalles Dam upstream to the John Day Dam.

WSR 08-07-041
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed March 13, 2008, 3:51 p.m., effective March 14, 2008]

Effective Date of Rule: March 14, 2008.

Purpose: The department is amending via an emergency rule WAC 388-424-0010 Citizenship and alien status—Eligibility restrictions for the temporary assistance for needy families program and medical benefits, including nonemergency medicaid and the state children's health insurance program (SCHIP), 388-424-0020 How does my alien status impact my eligibility for the federally funded Washington Basic Food program benefits?, 388-466-0005 Immigration status requirements for refugee assistance, 388-466-0120 Refugee cash assistance, and 388-466-0130 Refugee medical assistance.

These amendments are necessary to allow Iraqi and Afghan special immigrants to be eligible for refugee cash assistance (RCA), refugee medical assistance (RMA), services and other entitlement benefits as allowed under federal law.

These amendments are in response to the Consolidated Appropriations Act of 2008, which was signed into law on December 26, 2007, and the National Defense Bill which was signed by the president on January 28, 2008.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-424-0010, 388-424-0020, 388-466-0005, 388-466-0120, and 388-466-0130.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.320.

Other Authority: The Consolidated Appropriations Act of 2008, signed into law on December 26, 2007, and the National Defense Bill, which was signed by the President on January 28, 2008.

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 amendments need to be made via an emergency rule filing since eligibility for special immigrants from Iraq or Afghanistan begins the date they enter the United States. Some individuals would receive limited assistance or no assistance at all if the department made the changes only via the regular rule filing process. The department is concurrently working on the regular rule-filing process.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 5, 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 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: March 10, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-013, filed 11/4/05, effective 1/1/06)

WAC 388-424-0010 Citizenship and alien status—Eligibility restrictions for the temporary assistance for needy families program and medical benefits, including nonemergency Medicaid and the state children's health insurance program (SCHIP). (1) To receive TANF or medical benefits you must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

- (a) A U.S. citizen;
- (b) A U.S. national;
- (c) An American Indian born outside the U.S.;
- (d) A "qualified alien";
- (e) A victim of trafficking; ~~((or))~~
- (f) A Hmong or Highland Lao; or
- (g) An Iraqi or Afghan Special Immigrant who was granted Special Immigrant status under section 101 (a)(27) of the INA. Iraqi Special Immigrants are eligible for eight months of federally-funded assistance from the date of entry into the United States. Afghan Special Immigrants are eligible for six months of federally-funded assistance from the date of entry into the United States.

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF, nonemergency Medicaid, and SCHIP benefits.

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF, non-emergency Medicaid, or SCHIP for five years after obtaining status as a qualified alien unless he or she is an alien as described under WAC 388-424-0006(4).

(4) An alien who is ineligible for TANF, nonemergency Medicaid, or SCHIP because of the five-year bar or because of their immigration status may be eligible for:

- (a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program) and WAC 388-438-0110 (alien emergency medical program); or
- (b) State-funded cash or chemical dependency benefits as described in WAC 388-424-0015 (SFA, GA and ADATSA) and medical benefits as described in WAC 388-424-0016; or
- (c) Pregnancy medical benefits as described in WAC 388-462-0015; or
- (d) Children's health program as described in WAC 388-505-0210.

AMENDATORY SECTION (Amending WSR 04-15-004, filed 7/7/04, effective 8/7/04)

WAC 388-424-0020 How does my alien status impact my eligibility for the federally funded Washington Basic Food program benefits? (1) If you are a U.S. citizen or U.S. national as defined in WAC 388-424-0001 and meet all other eligibility requirements, you may receive federal Basic Food benefits.

(2) If you are not a U.S. citizen or U.S. national, you must fall within (a), ~~((or))~~ (b), ~~(c)~~ or (d) of this subsection, and meet all other eligibility requirements, in order to receive federal Basic Food benefits:

(a) You are a member of one of the following groups of "qualified aliens" or similarly defined lawful immigrants as defined in WAC 388-424-0001:

- (i) Amerasian;
- (ii) Asylee;
- (iii) Cuban or Haitian entrant;
- (iv) Deportation or removal withheld;
- (v) Refugee;
- (vi) Victim of trafficking;
- (vii) Noncitizen American Indian; or
- (viii) Hmong or Highland Lao tribal member.

(b)(i) You are a member of one of the following groups of qualified aliens as defined in WAC 388-424-0001:

- (A) Conditional entrant;
- (B) Lawful permanent resident (LPR);
- (C) Paroled for one year or more; or
- (D) Victim of domestic violence or parent or child of a victim.

(ii) And, one of the following also applies to you:

(A) You have worked or can get credit for forty Social Security Administration (SSA) work quarters - as described in WAC 388-424-0008;

(B) You are an active duty personnel or honorably discharged veteran of the U.S. military or you are the spouse, unmarried surviving spouse, or unmarried dependent child of someone who meets this requirement, as described in WAC 388-424-0007(1);

(C) You receive cash or medical benefits based on Supplemental Security Income (SSI) criteria for blindness or disability;

(D) You have lived in the U.S. as a "qualified alien" as described in WAC 388-424-0001 for at least five years;

(E) You are under age eighteen; or

(F) You were lawfully residing in the U.S. on August 22, 1996 and were born on or before August 22, 1931.

(c) You are an Iraqi Special Immigrant who was granted Special Immigrant status under section 101 (a)(27) of the INA. Iraqi Special Immigrants are eligible for six months of federally-funded assistance from the date of entry into the United States.

(d) You are an Afghan Special Immigrant who was granted Special Immigrant status under section 101 (a)(27) of the INA. Afghan Special Immigrants are eligible for six months of federally-funded assistance from the date of entry into the United States.

(3) If you are ineligible for federal Basic Food benefits due to your alien status, you may be eligible for state Basic Food benefits (see WAC 388-424-0025).

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-466-0005 Immigration status requirement for refugee assistance. (1) To be eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA), a person must prove, by providing documentation issued by the (~~Immigration and Naturalization Service (INS))~~ U.S. Citizenship and Immigration Services (USCIS), that he or she was:

- (a) Admitted as a refugee under section 207 of the Immigration and Nationalities Act (INA);
 - (b) Paroled into the U.S. as a refugee or asylee under section 212 (d)(5) of the INA;
 - (c) Granted conditional entry under section 203 (a)(7) of the INA;
 - (d) Granted asylum under section 208 of the INA;
 - (e) Admitted as an Amerasian Immigrant from Vietnam through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 Continuing Resolution P.L. 100-212;
 - (f) A Cuban-Haitian entrant who was admitted as a public interest parolee under section 212 (d)(5) of the INA;
 - (g) From Iraq or Afghanistan and has been granted Special Immigrant status under section 101 (a)(27) of the INA.
- (2) A permanent resident alien meets the immigration status requirements for RCA and RMA if the individual was previously in one of the statuses described in subsections (1)(a) through ((f)) (g) of this section.

AMENDATORY SECTION (Amending WSR 02-04-057, filed 1/30/02, effective 2/1/02)

WAC 388-466-0120 Refugee cash assistance (RCA).
(1) Who can apply for (~~refugee~~) refugee cash assistance (RCA)?

Any individual can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within thirty days.

(2) How do I know if I qualify for RCA?

You may be eligible for RCA if you meet all of the following conditions:

- (a) You have resided in the United States for less than eight months;
- (b) You meet the immigration status requirements of WAC 388-466-0005;
- (c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;
- (d) You meet the work and training requirements of WAC 388-466-0150; and
- (e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.

(3) What are the other reasons for not being eligible for RCA?

Even if you meet the eligibility requirements named in subsection (2) above you may be not eligible if you:

- (a) Are eligible for temporary assistance for needy families (TANF) or Supplemental Security Income (SSI); or
- (b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within thirty consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

(5) If I am a victim of human trafficking, can I be eligible for RCA?

(a) If you are an adult victim you are eligible for RCA to the same extent as a refugee, if you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS) and meet eligibility requirements in subsection (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter.

(b) If you are a child victim under eighteen years old you are eligible for benefits to the same extent as a refugees and do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement.

(6) Does getting a onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

(7) What is the effective date of my eligibility for RCA?

The date DSHS has sufficient information to make eligibility decision is the date your RCA begins.

(8) When does my RCA end?

(a) Your RCA ends on the last day of the eighth month starting from the month of your arrival to the United States. Count the eight months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, 2000, May is your first month and December 2000 is your last month of RCA.

(b) If you are from Afghanistan and were granted Special Immigrant status under section 101 (a)(27) of the INA, your RCA ends on the last day of the sixth month starting from the month of your arrival to the United States.

(c) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA. Your medical coverage may continue for up to eight months from your month of arrival in the United States (WAC 388-466-0130).

(9) Are there other reasons why RCA may end?

Your RCA also ends if:

- (a) You move out of Washington state;
- (b) Your unearned income and/or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) Will my spouse be eligible for RCA, if he/she arrives in the U.S. after me?

When your spouse arrives in the United States, DSHS determines his/her eligibility for RCA and/or other income assistance programs. Your spouse may be eligible for up to eight months of RCA based on his/her date of arrival into the United States. If you live together you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on your and your spouse's combined income and resources (WAC 388-466-0140). Spouses from Afghanistan who have been granted Special Immigrant status under section 101 (a)(27) of the INA, are eligible for RCA for a maximum of six months from the date of entry into the United States.

(11) Can I get additional money in an emergency?

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

(12) Can I receive RCA if I was granted Special Immigrant status?

(a) If you are from Iraq and were granted Special Immigrant status under section 101 (a)(27) of the INA, and you meet all other eligibility requirements, you are eligible for RCA for up to eight months from the date of your entry to the United States.

(b) If you are from Afghanistan and were granted Special Immigrant status under section 101 (a)(27) of the INA, and you meet all other eligibility requirements, you are eligible for RCA for up to six months from the date of your entry to the United States.

(13) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or a fair hearing (WAC 388-02-0090). Your request must be made within ninety days of the decision or action.

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.

AMENDATORY SECTION (Amending WSR 04-05-010, filed 2/6/04, effective 3/8/04)

WAC 388-466-0130 Refugee medical assistance (RMA). (1) Who can apply for refugee medical assistance?

Any individual can apply for refugee medical assistance (RMA) and have eligibility determined by the department of social and health services (DSHS).

(2) Who is eligible for refugee medical assistance?

(a) You are eligible for RMA if you meet all of the following conditions:

(i) Immigration status requirements of WAC 388-466-0005;

(ii) Income and resource requirements of WAC 388-466-0140;

(iii) Monthly income standards up to two hundred percent of the federal poverty level (FPL). Spenddown is available for applicants whose income exceeds two hundred percent of FPL (see WAC 388-519-0110); and

(iv) Provide the name of the voluntary agency (VOLAG) which helped bring you to this country, so that DSHS can promptly notify the agency (or sponsor) about your application for RMA.

(b) You are eligible for RMA if you meet one of the following conditions:

(i) Receive refugee cash assistance (RCA) and are not eligible for Medicaid or children's health insurance program (CHIP); or

(ii) Choose not to apply for or receive RCA and are not eligible for Medicaid or CHIP, but still meet RMA eligibility requirements.

(3) Who is not eligible for refugee medical assistance?

You are not eligible to receive RMA if you are:

(a) Already eligible for Medicaid or CHIP;

(b) A full-time student in an institution of higher education unless the educational activity is part of a department-approved individual responsibility plan (IRP);

(c) A nonrefugee spouse of a refugee.

(4) If I have already received a cash assistance grant from voluntary agency (VOLAG), will it affect my eligibility for RMA?

No. A cash assistance payment provided to you by your VOLAG is not counted in determining eligibility for RMA.

(5) If I get a job after I have applied but before I have been approved for RMA, will my new income be counted in determining my eligibility?

No. Your RMA eligibility is determined on the basis of your income and resources on the date of the application.

(6) Will my sponsor's income and resources be considered in determining my eligibility for RMA?

Your sponsor's income and resources are not considered in determining your eligibility for RMA unless your sponsor is a member of your assistance unit.

(7) How do I find out if I am eligible for RMA?

DSHS will send you a letter in both English and your primary language informing you about your eligibility. DSHS will also let you know in writing every time there are any changes or actions taken on your case.

(8) Will RMA cover my medical expenses that occurred after I arrived in the U.S. but before I applied for RMA?

You may be eligible for RMA coverage of your medical expenses for three months prior to the first day of the month of your application. Eligibility determination will be made according to Medicaid rules.

(9) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example, if you entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and granted asylum on September 1,

2000, your date of entry is September 1, 2000. On September 1, 2000 you may be eligible for refugee medical assistance.

(10) When does my RMA end?

Your refugee medical assistance will end on the last day of the eighth month from the month of your entry into the United States. Start counting the eight months from the first day of the month of your entry into the U.S. For example, if you entered the U.S. on May 28, 2000, your last month is December 2000.

(11) What happens if my earned income goes above the income standards?

(a) If you are getting RMA, your medical eligibility will not be affected by the amount of your earnings;

(b) If you were getting Medicaid and it was terminated because of your earnings, we will transfer you to RMA for the rest of your RMA eligibility period. You will not need to apply.

(12) Will my spouse also be eligible for RMA, if he/she arrives into the U.S. after me?

When your spouse arrives in the U.S., we will determine his/her eligibility for Medicaid and other medical programs. Your spouse may be eligible for RMA; if so, he/she would have a maximum of eight months of RMA starting on the first day of the month of his/her arrival. Spouses from Afghanistan who have been granted Special Immigrant status under section 101 (a)(27) of the INA, are eligible for RMA for a maximum of six months from the date of entry into the United States.

(13) Can I receive RMA if I was granted Special Immigrant status?

(a) If you are from Iraq and were granted Special Immigrant status under section 101 (a)(27) of the INA, and you meet all other eligibility requirements, you are eligible for RMA for up to eight months from the date of your entry to the United States.

(b) If you were from Afghanistan and were granted Special Immigrant status under section 101 (a)(27) of the INA, and you meet all other eligibility requirements, you are eligible for RMA for up to six months from the date of your entry to the United States.

(14) What do I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with the decision or action taken on your case by department you have the right to request a review of your case or request a fair hearing (see WAC 388-02-0090). Your request must be made within ninety days of the decision or action).

((14)) (15) What happens to my medical coverage after my eligibility period is over?

We will determine your eligibility for other medical programs. You may have to complete an application for another program.

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 08-07-042
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Management Services Administration)**

[Filed March 14, 2008, 8:43 a.m., effective March 14, 2008, 8:43 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 process and is consulting with managers and legal advisors as to the best way to coordinate the permanent rule process with legislation and business needs. This filing extends the emergency rule filed as WSR 07-23-059.

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: March 7, 2008.

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.

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 08-07-043
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Management Services Administration)

[Filed March 14, 2008, 8:44 a.m., effective March 14, 2008, 8:44 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; and amended WAC 388-06-0010.

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 are 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 process and is consulting with managers and legal advisors as to the best way to coordinate the permanent rule process with legislation and business needs. This filing extends the emergency rule filed as WSR 07-23-060.

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: March 7, 2008.

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.

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 disqualification 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 08-07-044
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Division of Child Support)

[Filed March 14, 2008, 8:45 a.m., effective March 16, 2008]

Effective Date of Rule: March 16, 2008.

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). The division of child support (DCS) is devel-

oping 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 then filed second emergency rules under WSR 07-23-058, effective November 16, 2007.

DCS has developed policies and procedures and revised the proposed rules as needed. The draft rules have gone out for review, and DCS has worked extensively with interested stakeholders. DCS plans to file the CR-102, notice of proposed rule making, at the same time this third emergency rule is filed. These emergency rules are necessary until the regular rule-making process is completed. The third emergency filing contains exactly the same text as the first emergency rule and the second emergency rule.

See Reviser's note below.

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 as of July 22, 2007, or risk loss of federal funds for noncompliance. DCS continues the regular rule-making process but because of extensive stakeholder participation, was unable to finalize the adoption of the rules within the time limit of the second 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: March 4, 2008.

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 08-09 issue of the Register.

Date Adopted: March 14, 2008.

Peggy Larson
Administrator

WSR 08-07-056
EMERGENCY RULES
BOARD OF
PILOTAGE COMMISSIONERS

[Filed March 14, 2008, 1:51 p.m., effective March 14, 2008, 1:51 p.m.]

Effective Date of Rule: Immediately.

Purpose: To modify the procedure for lifting pilot license limitations for a Grays Harbor pilot during his/her third license year. It is intended that certain specified license upgrade trips may be substituted on appropriate vessels and waterways in the Puget Sound pilotage district (PSPD) if they are not available in the Grays Harbor pilotage district (GHPD).

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-082 Limitations on new pilots.

Statutory Authority for Adoption: RCW 88.16.105.

Other Authority: RCW 88.16.035.

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: Currently there are very few vessels over 45,000 GT (ITC) calling in the GHPD; however, it is necessary for a pilot in his/her third year of piloting in this district to make trips on this size vessel in order to meet the requirements for upgrading his/her license. Due to the small pilot workforce in the GHPD it is essential that license upgrades are accomplished without delay. A delay of this sort could result in not having adequate pilot coverage for vessels routinely requiring a pilot, or for vessels in distress not being attended to efficiently. Allowing a Grays Harbor pilot to perform upgrade trips in the PSPD on like vessels and waterways would provide for timely lifting of license limitations.

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

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

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

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

AMENDATORY SECTION (Amending WSR 07-17-148, filed 8/21/07, effective 9/21/07)

WAC 363-116-082 Limitations on new pilots. (1) The following limitations and pilot license upgrade requirements shall apply to a newly licensed pilot during his/her first five years of active service. For purposes of this section, the term "tank vessel" shall, in addition to tank ships, include any articulated or integrated tug and tank barge combinations, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. For purposes of this section, the term "petroleum products" shall include crude oil, refined products, liquefied natural gas, and liquified petroleum gas. GT (ITC) as used in this section refers to gross tonnages measured in accordance with the requirements of the 1969 International Convention on Tonnage Measurement of Ships.

(2) Puget Sound pilotage district - license limitation periods. Except for trips being made for pilot license upgrades, licenses issued in the Puget Sound pilotage district shall have the following limitations:

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	30,000 GT (ITC) or 660 feet except for passenger vessels which may only have a maximum size of 5000 GT (ITC)
2	30,000 GT (ITC)	38,000 GT (ITC)
3	38,000 GT (ITC)	48,000 GT (ITC)
4	45,000 GT (ITC)	60,000 GT (ITC)
5	55,000 GT (ITC)	75,000 GT (ITC)

(3) Puget Sound pilotage district - pilot license upgrade requirements. Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of eight trips to be made by each pilot in the last one hundred twenty days of each year of the license limitation periods specified in subsection (2) of this section, except that pilots whose license anniversary date is less than one hundred twenty days after the effective date of this section shall only be required to make three such trips prior to the first license anniversary subsequent to the effective date of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the

trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, or between the pilot station and a port. The supervising pilots shall complete and submit to the board an evaluation form provided by the board for each trip a new pilot performs.

(4) Grays Harbor pilotage district - license limitation periods. Pilots licensed in the Grays Harbor pilotage district shall not pilot vessels in violation of the restrictions set forth in the table below during the indicated license year.

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	25,000 GT (ITC) except that piloting on vessels of any size is prohibited through the Chehalis River Bridge unless vessel is in ballast and does not exceed 25,000 GT (ITC)
2	10,000 GT (ITC)	30,000 GT (ITC)
3	45,000 GT (ITC)	45,000 GT (ITC)
4	60,000 GT (ITC)	60,000 GT (ITC)
5	75,000 GT (ITC)	75,000 GT (ITC)

Notwithstanding subsection (7) of this section, upon determination that a bona fide safety concern may result from no pilot without license restrictions being available within a reasonable time to pilot a vessel requiring pilotage services, the chairperson or acting chairperson of the board, on a single trip basis, may authorize a newly licensed pilot holding a restricted license to provide pilotage services to the vessel, irrespective of the tonnage, service or location of the assigned berth of the vessel.

(5) Grays Harbor pilotage district - pilot license upgrade requirements.

(a) Prior to the expiration of the first license year, a new pilot must make five license upgrade trips. Three of these trips shall be through the Chehalis River bridge on loaded or partially loaded vessels. The other trips shall be on vessels in excess of 25,000 GT (ITC) and involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(b) Prior to the expiration of the second license year, a new pilot must make two license upgrade trips on tank vessels in excess of 10,000 GT (ITC) and one trip on a vessel in excess of 30,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway. Upon satisfactory completion of the two upgrade trips upon tank

vessels and completion of the second license year, the pilot will be authorized to pilot tank vessels in accordance with the limitations specified in subsection (4) of this section. Upon satisfactory completion of the one upgrade trip upon a vessel in excess of 30,000 GT (ITC) and completion of the second license year, the pilot will be authorized to pilot vessels in accordance with the limitations specified in subsection (4) of this section.

(c) Prior to the expiration of the third license year, a new pilot must make three license upgrade trips on vessels in excess of 45,000 GT (ITC) or on the nearest larger size vessels available. Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway. If these trips are not available in the Grays Harbor pilotage district, specified trips in the Puget Sound pilotage district may be substituted. Two of these trips shall involve docking or undocking and passage to or from the pilot boarding ground in the Puget Sound pilotage district, or docking or undocking between two ports in the Puget Sound pilotage district that are a minimum of twenty miles apart; and one trip shall involve turning, or maneuvering in such a manner to substantially change the heading of, the vessel in a waterway similar to that in the Grays Harbor pilotage district.

(d) Prior to the expiration of the fourth license year, a new pilot must make two license upgrade trips on vessels in excess of 60,000 GT (ITC) or on the nearest larger size vessels available.

(e) Prior to the expiration of the fifth license year, a new pilot must make two license upgrade trips on vessels in excess of 75,000 GT (ITC) or on the nearest larger size vessels available.

(f) Notwithstanding (c), (d), and/or (e) of this subsection not being accomplished due to unavailability of vessels, in the sixth license year a pilot will be issued a license without limitations.

(6) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he/she shall notify the board and request a revised schedule of limitations.

(7) Except as provided in subsection (4) of this section, no pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(8) All limitations on a pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the board a statement attesting to the fact that he/she has completed all the required license upgrade trips and the vessel simulator courses.

WSR 08-07-059

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed March 14, 2008, 3:39 p.m., effective March 14, 2008, 3:39 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. The department is in the process of putting this language into permanent rule.

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: March 14, 2008.

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 (CAN).

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 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 ((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.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, 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: March 17, 2008.

Steve Excell
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 06-14-049, filed 6/28/06, effective 7/29/06)

WAC 434-215-012 Declaration of candidacy—Offices subject to a primary. Declarations of candidacy for all partisan and nonpartisan offices filed either in person or by mail shall be in substantially the following form:

WSR 08-07-065

EMERGENCY RULES

SECRETARY OF STATE

(Elections Division)

[Filed March 17, 2008, 1:17 p.m., effective March 17, 2008, 1:17 p.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of these rules is to revise the declarations of candidacy. This includes both the regular declaration for partisan and nonpartisan offices, and the declaration specific to the office of precinct committee officer. These declarations are required by RCW 29A.24.031 to be adopted in administrative rule.

Citation of Existing Rules Affected by this Order: Amending WAC 434-215-012, 434-215-020, and 434-215-025.

Statutory Authority for Adoption: RCW 29A.24.031 and 29A.04.611.

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 office of the secretary of state waited until the end of the legislative session to initiate this rule making due to pending legislation that could have impacted the candidate filing process. The legislative session ended March 13, 2008. There is insufficient time to adopt these revisions pursuant to the regular rule-making process prior to the regular filing period, which begins June 2, 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.

((STRICKEN GRAPHIC))

FILING DATA . . . FOR OFFICE USE ONLY

Date _____ Fee Paid \$ _____ File No. _____ Office Code _____
[] Check [] Debit/Credit
[] Cash [] Filing Fee Petition Voter Registration # _____ Clerk Initials _____

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

2. _____
(STREET ADDRESS OR RURAL ROUTE) (CITY) (COUNTY) (ZIP CODE)

(MAILING ADDRESS) (CITY) (COUNTY) (ZIP CODE)

(TELEPHONE NUMBER) (EMAIL ADDRESS)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. I declare myself as a candidate for the office of:

(NAME OF OFFICE)

(CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

(PPOSITION NUMBER IF APPLICABLE)

(DIRECTOR OR COMMISSIONER DISTRICT, IF ANY)

4. For the following term of office:

- [] A full term or a full term and a short term, or
[] An unexpired term

5. This office is:

- [] Nonpartisan, or
[] Partisan, and I am (check one): [] a candidate of the _____ party, or
[] an independent candidate.

6. Filing Fee (check one):

- [] There is no filing fee because the office has no fixed annual salary, or
[] I am submitting a filing fee of \$10 because the fixed annual salary of the office is \$1,000 or less, or
[] I am submitting a filing fee of \$ _____, an amount equal to 1% of the annual salary, or
[] I am without sufficient assets or income to pay the filing fee required by law and I have attached a filing fee petition in lieu of this fee, pursuant to RCW 29A.24.091.

7. Please print my name on the ballot exactly as follows: _____
(PLEASE PRINT)

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to either by a notary public or by the officer with whom the declaration is filed.

8. Sign Here X _____
(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

STATE OF WASHINGTON, COUNTY OF _____

SIGNED OR ATTESTED BEFORE ME ON _____
(DATE)

by _____
(CANDIDATE)

(SEAL OR STAMP)

(SIGNATURE OF NOTARY)

(TITLE)

MY APPOINTMENT EXPIRES _____

SSE 84-1 (2006)

Candidate: Return all copies of this declaration to your Elections Dept.
Distribution by Elections Dept: White—County; Yellow—PDC; Pink—Candidate

STRICKEN GRAPHIC))

FOR OFFICE USE ONLY			
Date _____	Fee Paid \$ _____	Filing No. _____	Office Code _____
<input type="checkbox"/> Check	<input type="checkbox"/> Debit/Credit		
<input type="checkbox"/> Cash	<input type="checkbox"/> Filing Fee Petition	Voter Registration # _____	Clerk Initials _____

DECLARATION OF CANDIDACY

1. I, _____ am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)
2. _____
(STREET ADDRESS OR RURAL ROUTE) (CITY) (COUNTY) (ZIP CODE)

and at the time of filing this declaration I am legally qualified to assume office if elected.

3. My campaign contact information is:

(MAILING ADDRESS)

(TELEPHONE NUMBER) (EMAIL ADDRESS)

4. I declare myself as a candidate for the office of:

(NAME OF OFFICE including DISTRICT or POSITION NUMBER)

(CONGRESSIONAL OR LEGISLATIVE DISTRICT, COUNTY, CITY, OR OTHER JURISDICTION)

5. For the following term of office: A full term, or a full term and a short term; or An unexpired term.
6. This office is:
 Nonpartisan, or
 Partisan and I am (check one): a candidate of the _____ Party; or an independent candidate.
7. Filing Fee (check one):
 There is no filing fee because the office has no fixed annual salary;
 I am submitting a filing fee of \$10 because the fixed annual salary of the office is \$1,000 or less;
 I am submitting a filing fee of \$_____, an amount equal to 1% of the annual salary; or
 I am without sufficient assets or income to pay the filing fee and am submitting a filing fee petition in lieu of this fee.

8. Please print my name on the ballot **exactly** as follows: _____
9. My ballot name is pronounced: _____

I declare that this information is, to the best of my knowledge, true. I also swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

Note: Your signature must be personally attested to by a notary public or by the officer with whom the declaration is filed.

10. Sign Here X

STATE OF WASHINGTON, COUNTY OF _____

(SEAL OR STAMP)

(SIGNATURE OF CANDIDATE AS REGISTERED TO VOTE)

Signed or Attested before me on _____
(DATE)

by _____
(CANDIDATE)

(SIGNATURE OF NOTARY)

(TITLE)

MY APPOINTMENT EXPIRES: _____

Candidate: Return all copies of this declaration to your Elections Dept.
Distribution: White—County; Yellow—PDC; Pink—Candidate

~~((The form shall measure eight and one half inches by eleven inches and be printed on paper stock of good quality. The form shall also contain space for recording the date and time of filing and a sequential filing and receipt number. One copy of the form or an electronic file, in a format approved by the secretary of state and acceptable to the public disclosure commission, containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be forwarded to the public disclosure commission as required by RCW 29A.24.070, and one copy of the form or an electronic file containing the information on the form of each properly executed and filed declaration and affidavit of candidacy shall be returned to the candidate.))~~ The filing officer must provide a paper or electronic copy of the filed declaration of candidacy to the candidate and to the public disclosure commission.

AMENDATORY SECTION (Amending WSR 07-09-035, filed 4/11/07, effective 5/12/07)

WAC 434-215-020 Declaration of candidacy—Precinct committee officer. Declarations of candidacy for the office of precinct committee officer, shall be filed in substantially the following form:

~~((STRICKEN GRAPHIC))~~

Filing Data For Office Use Only

Date _____	Fee Paid \$ _____	Filing No. _____	Precinct # _____
Paid By (check one)			
<input type="checkbox"/> Check	<input type="checkbox"/> Cash	<input type="checkbox"/> Other	Clerk/Cashier Initials _____ Voter Registration # _____

**DECLARATION OF CANDIDACY
PRECINCT COMMITTEE OFFICER**

I, _____, declare that I am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

(STREET ADDRESS OR RURAL ROUTE) (CITY) (COUNTY) WA (ZIP CODE)

(MAILING ADDRESS) (CITY) (COUNTY) WA (ZIP CODE)

(TELEPHONE NUMBER) (EMAIL ADDRESS)

that, at the time of filing this declaration, I am a registered voter in _____ precinct and that I am legally qualified to assume office if elected; that I hereby declare myself a candidate for the office of Precinct Committee Officer to be elected at the Primary Election, and hereby request that my name be printed upon the official Primary Election ballot as a candidate of the _____ party, and:

I am submitting the sum of one dollar, the fee required by RCW 29A.24.091.

Please print my name on the ballot **exactly** as follows: _____

Further, I declare, under penalty of perjury, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

X _____
(SIGNATURE OF CANDIDATE) (DATE)

~~STRICKEN GRAPHIC))~~

<u>Filing Data</u> <u>For Office Use Only</u>			
Date _____	Fee Paid \$ _____	Filing No. _____	Precinct # _____
Paid by: <input type="checkbox"/> Check <input type="checkbox"/> Cash		Staff Initials _____	Voter Registration ID _____

DECLARATION OF CANDIDACY PRECINCT COMMITTEE OFFICER

1. I, _____, declare that I am a registered voter residing at:
(PRINT NAME AS YOU ARE REGISTERED TO VOTE)

_____ WA _____
(STREET ADDRESS OR RURAL ROUTE) (CITY) (ZIP)

that I am a registered voter in _____ precinct, that I hereby declare myself a candidate for the office of Precinct Committee Officer for the _____ Party, to be elected at the Primary Election, and I am paying the filing fee of one dollar required by RCW 29A.24.091.

Further, I declare, under penalty of perjury, that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Washington.

X _____
(SIGNATURE OF CANDIDATE) (DATE)

Contact Information: _____
(TELEPHONE NUMBER) (EMAIL ADDRESS)

(MAILING ADDRESS, IF DIFFERENT FROM RESIDENTIAL ADDRESS)

2. Please print my name on the ballot exactly as follows:

In order to provide audio recordings of candidate information, we must know how to correctly pronounce your name. Please provide the pronunciation of your ballot name.

- Separate the syllables of your name by dashes and write it as it sounds.
- Use upper case letters for stressed syllables and lower case letters for unstressed syllables.
- Accompany with a rhyming word that sounds as close to the pronunciation as possible.
- Add any notes needed, such as silent letters, to assist in pronouncing your name.
- Example: "Siad Jahn" = SIGH-ad HAHN (rhymes with "fawn").

3. My ballot name is pronounced:

((The forms shall measure eight and one-half inches by eleven inches and be printed on paper stock of good quality. The form may also contain space for recording the date and time of filing, a receipt number, if applicable, and a sequential filing number.)) County auditors may design and use a declaration of candidacy different in form and style from that specified by this rule as long as it contains all of the information required by this rule.

AMENDATORY SECTION (Amending WSR 07-09-036, filed 4/11/07, effective 5/12/07)

WAC 434-215-025 ((Declaration of candidacy))
Filing fee petitions. When a candidate submits a filing fee petition in lieu of his or her filing fee, as authorized by RCW 29A.24.091, voters eligible to vote on the office in the general election are eligible to sign the candidate's filing fee petition.

WSR 08-07-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 08-49—Filed March 18, 2008, 9:02 a.m., effective March 18, 2008, 9:02 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-04600S; and amending WAC 220-52-046.

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 closure complies with state/treaty management agreements for harvest allocation and to reduce fishing mortality in areas that do not meet the hardshell criteria. Bait possession prevention prevents pot rebaiting and further handling of soft shell crab. 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 Mak-

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

Date Adopted: March 18, 2008.

Phil Anderson
 Deputy Director

NEW SECTION

WAC 220-52-04600U Puget Sound crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046,

1) Effective immediately until further notice, it will be unlawful to fish for Dungeness Crab for commercial purposes in those waters of Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B (Crab Management Region 1), and Areas 24A, 24B, 24C, 24D, 26A-East (Crab Management Region 2 East).

2) Effective 7:00 p.m. on March 20, 2008, until further notice, it will be unlawful to fish for Dungeness Crab for commercial purposes in those waters of Marine Fish Shellfish Catch Reporting Areas 26A-West, 25B, and 25D (Crab Management Region 2 West). Bait may not be aboard the designated crab vessel after 6:00 p.m. March 18, 2008.

3) Effective 7:00 p.m. on March 31, 2008, until further notice, it will be unlawful to fish for Dungeness Crab for commercial purposes in those waters of Marine Fish Shellfish Catch Reporting Areas 23A, 23B, (Crab Management Region 3-1), Areas 25A, 25E, 23D (Crab Management Region 3-2), and Areas 23C, 29 (Crab Management Region 3-3).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600S Puget Sound crab fishery—
 Season and areas. (08-35)

WSR 08-07-078
RESCISSION OF EMERGENCY RULES
SECRETARY OF STATE

[Filed March 18, 2008, 1:14 p.m.]

The office of the secretary of state rescinds the emergency rules filed on March 17, 2008, as WSR 08-07-065.

This request is due to a United States supreme court opinion issued today, March 18, 2008, upholding the constitutionality of Initiative 872 and reversing a previous Ninth Circuit Court of Appeals opinion.

If you have any questions, please contact Katie Blinn, assistant director of the elections division, at (360) 902-4168 or kblinn@secstate.wa.gov.

Steve Excell
 Assistant Secretary of State