

WSR 07-02-070
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)

[Filed December 29, 2006, 8:54 a.m., effective January 1, 2007]

Effective Date of Rule: January 1, 2007.

Purpose: The Washington state legislature has adopted the updated Uniform Interstate Family Support Act (UIFSA) as chapter 26.21A RCW, effective January 1, 2007. Division of child support (DCS) is developing new and amended rules as required in order to allow the Washington child support program to comply with UIFSA under our state plan under Title IV-D of the federal Social Security Act.

DCS has already filed the preproposal statement of inquiry to start the regular rule-making process for these rules (WSR 06-09-014). The draft rules are out for review and DCS plans to file the CR-102, notice of proposed rule making, as soon as the review is over (we anticipate filing the CR-102 in early January of 2007). These emergency rules are necessary until the regular rule-making process is completed.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-2105 Basic confidentiality rules for the division of child support, 388-14A-3304 The division of child support may serve((s)) a notice of support debt and demand for payment when it is enforcing a support order issued in Washington state, a foreign court order or a foreign administrative order for support?, 388-14A-3305 What can I do if I disagree with a notice of support debt and demand for payment?, 388-14A-3925 Who can ask to modify an administrative support order?, 388-14A-5300 How does the division of child support recover a support payment which has already been distributed?, 388-14A-6100 The division of child support accepts oral requests for hearing or conference board, 388-14A-7100 The division of child support may register an ((An)) order from another state ((may be registered in Washington)) for enforcement or modification, 388-14A-7110 The division of child support may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state, and 388-14A-7200 DCS can serve notices in other states under the Uniform Interstate Family Support Act; and new sections WAC 388-14A-3306 Does a notice of support debt and demand for payment result in a final determination of support arrears?, 388-14A-3307 How does the division of child support proceed when there are multiple child support orders for the same obligor and children?, 388-14A-7125 What happens at a hearing on a notice of support debt and registration?, 388-14A-7135 What is the effect of confirmation of a registered order on the finality of the support debt calculation?, 388-14A-7305 How do I ask DCS to do a determination of controlling order?, 388-14A-7315 When might DCS deny a request for a determination of controlling order?, 388-14A-7325 How does DCS notify the parties of its determination of the controlling order?, 388-14A-7335 What happens if someone objects to DCS' proposed determination of controlling order?, 388-14A-7345 What is the effect of a determination of controlling order on the finality of the debt calculation?, 388-14A-7400 What can I do if I want to contest an interstate

Order to Withhold Income served on my employer?, and 388-14A-7500 What can I do if I am concerned about the release of my personal information in an interstate referral?

Statutory Authority for Adoption: RCW 26.23.120, 34.05.220(2), 43.20A.550, 74.04.055, 74.08.090, 74.20.040, 74.20A.310.

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 the Uniform Interstate Family Support Act (UIFSA) in order to remain in compliance with its state plan under Title IV-D of the federal Social Security Act. The Washington version of UIFSA has been adopted as chapter 26.21A RCW and will be effective January 1, 2007. DCS must have rules in effect as of January 1, 2007, or risk loss of federal funds for noncompliance.

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 11, Amended 9, 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 11, Amended 9, Repealed 0.

Date Adopted: December 28, 2006.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-07-091, filed 3/19/02, effective 4/19/02)

WAC 388-14A-2105 Basic confidentiality rules for the division of child support. (1) Under RCW 26.23.120, all information and records, concerning persons who owe a support obligation or for whom the division of child support (DCS) provides support enforcement services, are private and confidential.

(2) DCS discloses information and records only to a person or entity listed in this section or in RCW 26.23.120, and only for a specific purpose allowed by state or federal law. See WAC 388-14A-7500 regarding disclosure of personal information in the context of referrals under the Uniform Interstate Family Support Act (UIFSA).

(3) DCS may disclose information to:

(a) The person who is the subject of the information or records, unless the information or records are exempt under RCW 42.17.310;

(b) Local, state, and federal government agencies for support enforcement and related purposes;

(c) A party to a judicial proceeding or a hearing under chapter 34.05 RCW, if the superior court judge or administrative law judge (ALJ) enters an order to disclose. The judge or presiding officer must base the order on a written finding that the need for the information outweighs any reason for maintaining privacy and confidentiality;

(d) A party under contract with DCS, including a federally recognized Indian tribe, if disclosure is for support enforcement and related purposes;

(e) A person or entity, including a federally recognized Indian tribe, when disclosure is necessary to the administration of the child support program or the performance of DCS functions and duties under state and federal law;

(f) A person, representative, or entity if the person who is the subject of the information and records consents, in writing, to disclosure;

(g) The office of administrative hearings or the office of appeals for administration of the hearing process under chapter 34.05 RCW. The ALJ or review judge must:

(i) Not include the address of either party in an administrative order, or disclose a party's address to the other party;

(ii) State in support orders that the address is known by the Washington state support registry; and

(iii) Inform the parties they may obtain the address by submitting a request for disclosure to DCS under WAC 388-14A-2110(2).

(4) DCS may publish information about a noncustodial parent (NCP) for locate and enforcement purposes.

(5) WAC 388-14A-2114(1) sets out the rules for disclosure of address, employment or other information regarding the custodial parent (CP) or the children in response to a public disclosure request.

(6) WAC 388-14A-2114(2) sets out the rules for disclosure of address, employment or other information regarding the NCP in response to a public disclosure request.

(7) DCS may disclose the Social Security Number of a dependent child to the noncustodial parent (NCP) to enable the NCP to claim the dependency exemption as authorized by the Internal Revenue Service.

(8) DCS may disclose financial records of an individual obtained from a financial institution only for the purpose of, and to the extent necessary, to establish, modify, or enforce a child support obligation of that individual.

(9) Except as provided elsewhere in chapter 388-14A WAC, chapter 388-01 WAC governs the process of requesting and disclosing information and records.

(10) DCS must take timely action on requests for disclosure. DCS must respond in writing within five working days of receipt of the request.

(11) If a child is receiving foster care services, the parent(s) must contact their local community services office for disclosure of the child's address information.

(12) The rules of confidentiality and penalties for misuse of information and reports that apply to a IV-D agency employee, also apply to a person who receives information under this section.

(13) Nothing in these rules:

(a) Prevents DCS from disclosing information and records when such disclosure is necessary to the performance

of its duties and functions as provided by state and federal law;

(b) Requires DCS to disclose information and records obtained from a confidential source.

(14) DCS cannot provide copies of the confidential information form contained in court orders. You must go to court to get access to the confidential information form. DCS may disclose information contained within the confidential information form if disclosure is authorized under RCW 26.23.120, chapter 388-01 WAC, or chapter 388-14A WAC.

(15) DCS may provide a Support Order Summary to the parties to an administrative support order under WAC 388-14A-2116.

AMENDATORY SECTION (Amending WSR 05-07-059, filed 3/11/05, effective 4/11/05)

WAC 388-14A-3304 The division of child support may serve((s)) a notice of support debt and demand for payment when it is enforcing a support order issued in Washington state, a foreign court order or a foreign administrative order for support. (1) The division of child support (DCS) may serve a notice of support debt and demand for payment on a noncustodial parent (NCP) under RCW 74.20A.040 to provide notice that DCS is enforcing a support order entered in Washington state, a foreign court order or a foreign administrative order for support.

(a) A "foreign" order is one entered in a jurisdiction other than a Washington state court or administrative forum.

(b) DCS uses the notice of support debt and demand for payment when there is only one current child support order for the NCP and the children in the case.

(c) When there are multiple current support orders for the same obligor and children, DCS determines which order to enforce as provided under WAC 388-14A-3307.

(2) DCS serves a notice of support debt and demand for payment like a summons in a civil action or by certified mail, return receipt requested.

(3) In a notice of support debt and demand for payment, DCS includes the information required by RCW 74.20A.040, the amount of current and future support, accrued support debt, interest (if interest is being assessed under WAC 388-14A-7110), any health insurance coverage obligation, and any day care costs under the court or administrative order.

(4) After service of a notice of support debt and demand for payment, the NCP must make all support payments to the Washington state support registry. DCS does not credit payments made to any other party after service of a notice of support debt and demand for payment except as provided in WAC 388-14A-3375.

(5) A notice of support debt and demand for payment becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW, subject to the terms of the order, unless, within twenty days of service of the notice in Washington, the NCP:

(a) Files a request with DCS for a conference board under WAC 388-14A-6400. The effective date of a conference board request is the date DCS receives the request;

(b) Obtains a stay from the superior court; or

(c) Objects to either the validity of the foreign support order or the administrative enforcement of the foreign support order, in which case DCS proceeds with registration of the foreign support order under WAC 388-14A-7100.

(6) A notice of support debt and demand for payment served in another state becomes final according to WAC 388-14A-7200.

(7) Enforcement of the following are not stayed by a request for a conference board or hearing under this section or WAC 388-14A-6400:

(a) Current and future support stated in the order; and

(b) Any portion of the support debt that the NCP and custodial parent (CP) fail to claim is not owed.

(8) Following service of the notice of support debt and demand for payment on the NCP, DCS mails to the last known address of the CP and/or the payee under the order:

(a) A copy of the notice of support debt and demand for payment; and

(b) A notice to payee under WAC 388-14A-3315 regarding the payee's rights to contest the notice of support debt. The CP who is not the payee under the order has the same rights to contest the notice of support debt and demand for payment.

(9) If the NCP requests a conference board under subsection (5)(a) of this section, DCS mails a copy of the notice of conference board to the CP informing the CP of the CP's right to:

(a) Participate in the conference board; or

(b) Request a hearing under WAC 388-14A-3321 within twenty days of the date of a notice of conference board that was mailed to a Washington address. If the notice of conference board was mailed to an out-of-state address, the CP may request a hearing within sixty days of the date of the notice of conference board. The effective date of a hearing request is the date DCS receives the request.

(10) If the CP requests a hearing under subsection (9) of this section, DCS must:

(a) Stay enforcement of the notice of support debt and demand for payment except as required under subsection (6) of this section; and

(b) Notify the NCP of the hearing.

(11) If a CP requests a late hearing under subsection (8) of this section, the CP must show good cause for filing the late request.

(12) The NCP is limited to a conference board to contest the notice and may not request a hearing on a notice of support debt and demand for payment. However, if the CP requests a hearing, the NCP may participate in the hearing.

(13) A notice of support debt and demand for payment must fully and fairly inform the NCP of the rights and responsibilities in this section.

~~((14) A notice of support debt that does not include interest does not relieve the NCP of any interest that may have accrued or may accrue under the support order covered by the notice.~~

~~(15) A notice of support debt that does include interest deals only the amount of debt, including interest, that is due and owing for the indicated time periods. Such a notice does not relieve the NCP of any interest that may have accrued or may accrue for any other time periods.)~~

NEW SECTION

WAC 388-14A-3305 What can I do if I disagree with a notice of support debt and demand for payment? Once the division of child support has served a notice of support debt and demand for payment, either party may disagree with the notice.

(1) If either party objects to the enforcement of a non-Washington support order, that party may request that DCS register that order under Chapter 26.21A RCW. DCS then serves a notice of support debt and registration as provided in WAC 388-14A-7110.

(2) If the noncustodial parent (NCP) objects to the amount of current support or the amount of support debt stated in the notice, the NCP may request a conference board under WAC 388-14A-6400.

(a) The custodial parent (CP) may participate in the conference board under this section.

(b) The CP may choose to convert the proceeding to an administrative hearing. The NCP may participate in a hearing held under this section.

(3) If the custodial parent objects to the amount of current support or the amount of support debt stated in the notice, the CP may request an administrative hearing. The NCP may participate in a hearing held under this section.

(4) See WAC 388-14A-3304 for a more full description of the hearing process on the notice of support debt and demand for payment.

NEW SECTION

WAC 388-14A-3306 Does a notice of support debt and demand for payment result in a final determination of support arrears? (1) After service of a notice of support debt and demand for payment as provided in WAC 388-14A-3304, the final administrative order determines the support debt as of the date of the order, and:

(a) The debt determination is not a final determination under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

(b) Any party may request that a tribunal determine any amounts owed as interest on the support debt.

(2) The final administrative order comes about by:

(a) Operation of law if nobody objects to the notice;

(b) Agreed settlement or consent order under WAC 388-14A-3600;

(c) Final conference board decision under WAC 388-14A-6400;

(d) Final administrative order entered after hearing or a party's failure to appear for hearing.

NEW SECTION

WAC 388-14A-3307 How does the division of child support proceed when there are multiple child support orders for the same obligor and children? When more than one current child support order exists for the same obligor and children, the division of child support (DCS) may proceed as follows:

(1) Using the criteria listed in RCW 26.21A.130, DCS decides which child support order it should enforce and

serves a notice of support debt and demand for payment under WAC 388-14A-3304.

(2) If DCS decides that a determination of controlling order under chapter 26.21A RCW is required, DCS serves a notice of support debt and registration as provided in WAC 388-14A-7100.

(3) Upon request, DCS may do a determination of controlling order (DCO).

(a) See WAC 388-14A-7305 for how you can ask for a DCO.

(b) See WAC 388-14A-7315 for how DCS decides whether or not to do a DCO.

(4) If DCS does a DCO and decides that a Washington order is the controlling order, DCS refers the case to superior court.

(5) If DCS does a DCO and decides that a non-Washington order is the controlling order, DCS serves a notice of support debt and registration as provided in WAC 388-14A-7325.

AMENDATORY SECTION (Amending WSR 02-06-098, filed 3/4/02, effective 4/4/02)

WAC 388-14A-3925 Who can ask to modify an administrative support order? (1) The division of child support (DCS), the custodial parent (CP) or the noncustodial parent (NCP) may request a hearing to prospectively modify the NCP's obligation under a support establishment notice. The request must be in writing and must state:

- (a) Any circumstances that have changed; and
- (b) The proposed new support amount.

(2) The petitioning party must file the request for modification with DCS.

(3) DCS serves a copy of the request for modification and notice of hearing on all other parties by first class mail at their address last known to DCS.

(4) DCS, the administrative law judge (ALJ), or the department review judge:

(a) Prospectively modifies orders according to the terms of chapter 26.19 RCW and RCW 74.20A.059; and

(b) May only modify an order issued by a tribunal in another state according to the terms of ~~((RCW 26.21.580))~~ RCW 26.21A.550.

(5) If the nonpetitioning party fails to appear at the hearing, the ALJ issues a default order based on the Washington state child support schedule and the worksheets submitted by the parties, considering the terms set out in the request for modification.

(6) If the petitioning party fails to appear at the hearing, the ALJ enters an order dismissing the petition for modification.

(7) If the petition for modification does not comply with the requirements of subsection (1)(a) and (b) of this section, the ALJ may:

- (a) Dismiss the petition; or
- (b) Continue the hearing to give the petitioning party time to amend according to WAC 388-14A-3275 or to complete the petition.

(8) The ALJ may set the effective date of modification as the date the order is issued, the date the request was made, or

any time in between. If an effective date is not set in the order, the effective date is the date the modification order is entered.

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

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-5300 How does the division of child support recover a support payment which has already been distributed? (1) The division of child support (DCS) may serve a notice to recover a support payment on the person who received the payment when DCS:

- (a) Distributed the money in error;
- (b) Distributed the money based on a check that is later dishonored;
- (c) Is required to refund or return the money to the person or entity that made the payment; or
- (d) Distributed money under a support order that was later modified so as to create an overpayment.

(2) DCS serves a notice to recover a support payment like a summons in a civil action or by certified mail, return receipt requested.

(3) In the notice, DCS must identify the support payment DCS seeks to recover.

(4) DCS may take action to enforce the notice to recover a support payment without further notice once the notice becomes final.

(a) A notice to recover a support payment becomes final unless the person who received the payment requests a hearing under subsection (5) of this section within twenty days of service of the notice to recover a support payment in Washington. The effective date of a hearing request is the date DCS receives the request.

(b) A notice to recover a support payment may be served in another state to recover a payment disbursed by DCS under ~~((RCW 26.21.385))~~ RCW 26.21A.290. A notice to recover a support payment served in another state becomes final according to WAC 388-14A-7200.

(5) A hearing on a notice to recover a support payment is for the limited purpose of resolving the existence and amount of the debt DCS is entitled to recover.

(6) A person who files a late request for a hearing on a notice to recover a support payment must show good cause for being late.

(7) In nonassistance cases and payment services only cases, DCS may recover a support payment under a final administrative order on a notice to recover a support payment by retaining ten percent of current support and one hundred percent of amounts collected on arrears in addition to any other remedy authorized by law.

(8) If a public assistance recipient receives a support payment directly from a noncustodial parent (NCP) and fails to remit it to DCS as required, DCS recovers the money as retained support under WAC 388-14A-5500.

(9) DCS may enforce the notice to recover a support payment as provided in subsection (7), or may act according to RCW 74.20A.270 as deemed appropriate.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-6100 The division of child support accepts oral requests for hearing or conference board. (1) Except for the instances listed in subsections (8) and (9), the division of child support (DCS) accepts either a written or an oral request for hearing or conference board, even though other sections of this chapter or the relevant statutes may provide that objections and hearing requests should be in writing.

(2) The subject matter of the objection determines whether the matter is set as a conference board or hearing, unless there is a specific request for an administrative hearing under chapter 34.05 RCW.

(3) DCS processes oral and written requests for hearing in the same manner.

(4) An oral request for hearing is complete if it contains enough information to identify the person making the request, the DCS action, and the case or cases involved in the hearing request.

(5) The effective date of an oral request for hearing is the date that someone makes a complete oral request for hearing, to any DCS representative in person or by leaving a message on the automated voice mail system of any DCS field office.

(6) When making an oral request, you do not need to specify whether you want a hearing under chapter 34.05 RCW or a conference board under WAC 388-14A-6400.

(7) You can make an oral request for hearing or conference board on behalf of another person, if you have written authorization to act on their behalf. The effective date of an oral request for hearing or conference board made on behalf of another person is the later of the date of the complete oral request for hearing or the date that DCS receives the written authorization.

(8) There are two types of hearing requests which must be in writing:

(a) A petition for prospective modification under WAC 388-14A-3925; and

(b) A petition for reimbursement for day care expenses under WAC 388-14A-4300.

(9) You must also make the following requests in writing:

(a) A request for a determination of controlling order under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW, as described in WAC 388-14A-7305; and

(b) An objection to the determination of controlling order contained in a notice of support debt and registration issued by DCS under WAC 388-14A-7325. WAC 388-14A-7335 describes how to make this objection.

AMENDATORY SECTION (Amending WSR 05-07-059, filed 3/11/05, effective 4/11/05)

WAC 388-14A-7100 ((Am)) The division of child support may register an order from another state ((may be registered in Washington)) for enforcement or modification. (1) A support enforcement agency, or a party to a child support order or an income-withholding order for support

issued by a tribunal of another state, may register the order in this state for enforcement pursuant to chapter 26.21A RCW.

(a) At the option of the division of child support (DCS), the support order or income-withholding order may be registered with the superior court pursuant to RCW ((26.21.490)) 26.21A.505 or it may be registered with the administrative tribunal according to subsection (2) of this section. Either method of registration is valid.

(b) A support order or income-withholding order issued in another state is registered when the order is filed with the registering tribunal of this state.

(c) DCS may enforce a registered order issued in another state in the same manner and subject to the same procedures as an order issued by a tribunal of this state.

(d) DCS may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than the state of Washington as provided in WAC 388-14A-7110.

(e) DCS may notify the parties that it is enforcing a non-Washington support order using the notice of support debt and demand for payment under WAC 388-14A-3304 or using the notice of support debt and registration as provided in this section and in WAC 388-14A-7110. Either method of notice is valid.

(2) DCS must give notice to the nonregistering party when it administratively registers a support order or income-withholding order issued in another state. DCS gives this notice with the Notice of Support Debt and Registration (NOSDR).

(a) The notice must inform the nonregistering party:

(i) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(ii) That if a party wants a hearing to contest the validity or enforcement of the registered order, the party must request a hearing within twenty days after service of the notice on the nonregistering party within Washington state. If the nonregistering party was served with the notice outside of Washington state, the party has sixty days after service of the notice to request a hearing to contest the validity or enforcement of the registered order;

(iii) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; ~~((and))~~

(iv) Of the amount of any alleged arrearages, including interest, if interest is being assessed under WAC 388-14A-7110; and

(v) Whether DCS has made a determination of controlling order under chapter 26.21A RCW, as described in WAC 388-14A-7325.

(b) The notice must be:

(i) Served on the non-registering party by certified or registered mail or by any means of personal service authorized by the laws of the state of Washington; and

(ii) Served on the registering party by first class mail at the last known address; and

(iii) Accompanied by a copy of the registered order and any documents and relevant information accompanying the order submitted by the registering party.

(c) The effective date of a request for hearing to contest the validity or enforcement of the registered order is the date DCS receives the request.

~~(3) ((A hearing under this section is for the limited purpose of determining if the nonregistering party can prove one or more of the defenses listed in RCW 26.21.540(1)).~~

~~(a) If the contesting party presents evidence establishing a full or partial defense under RCW 26.21.540(1), the presiding officer may:~~

~~(i) Stay enforcement of the registered order;~~

~~(ii) Continue the proceeding to allow the parties to gather additional relevant evidence; or~~

~~(iii) Issue other appropriate orders.~~

~~(b) DCS may enforce an uncontested portion of the registered order by all remedies available under the law of this state.~~

~~(c) If the contesting party does not establish a defense under RCW 26.21.540(1) to the validity or enforcement of the order, the presiding officer must issue an order confirming the registered order.~~

~~(d) The custodial parent (CP) or payee of the order may participate as a party to any hearing under this section.~~

~~(4) Except as provided below in subsections (5) and (6) of this section, confirmation of a registered order precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Confirmation may occur:~~

~~(a) By operation of law upon failure to contest registration; or~~

~~(b) By order of the administrative law judge (ALJ).~~

~~(5) Confirmation of a registered order that does not include interest does not relieve the NCP of any interest that may have accrued or may accrue under the confirmed order.~~

~~(a) If interest is later assessed, the NCP or CP may not dispute the confirmed amount of the support debt.~~

~~(b) The NCP or CP may dispute the amount of interest due and owing on that confirmed amount by requesting a conference board under WAC 388-14A-6400.~~

~~(6) Confirmation of a registered order that does include interest confirms only the amount of debt, including interest, that is due and owing for the indicated time periods. Such confirmation does not relieve the NCP of any interest that may have accrued or may accrue for any other time period.~~

~~(7)) A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state may register the order in this state according to RCW ((26.21.560)) 26.21A.540 through ((26.21.580)) 26.21A.550.~~

(a) The order must be registered as provided in subsection (1)(a) if the order has not yet been registered.

(b) A petition for modification may be filed at the same time as a request for registration, or later. The petition must specify the grounds for modification.

(c) DCS may enforce a child support order of another state registered for purposes of modification, as if a tribunal of this state had issued the order, but the registered order may

be modified only if the requirements of RCW ((26.21.580)) 26.21A.550 are met.

~~((8))~~ (4) Interpretation of the registered order is governed by RCW ((26.21.510)) 26.21A.515.

AMENDATORY SECTION (Amending WSR 05-07-059, filed 3/11/05, effective 4/11/05)

WAC 388-14A-7110 The division of child support may assess and collect interest on amounts owed under support orders entered or established in a jurisdiction other than Washington state. (1) The division of child support (DCS) may accept an interstate request to assess and collect interest when:

(a) The request is from:

(i) Another state's IV-D agency;

(ii) An Indian tribe;

(iii) A foreign country which has entered into a reciprocal agreement with the United States of America or with the state of Washington; or

(iv) A custodial parent (CP) or noncustodial parent (NCP) who resides outside of Washington state who has filed a petition under the Uniform Interstate Family Support Act (UIFSA), chapter ((26.21)) 26.21A RCW.

(b) The party requesting that DCS assess and collect interest provides a calculation of the interest claimed which has been certified by a IV-D agency or a certified public accountant (CPA); and

(c) The support order was entered or established in a jurisdiction other than Washington state.

(2) When a foreign support order has been submitted for enforcement under UIFSA, DCS may, at its option, either:

(a) Use the notice of support debt and demand for payment to assess and collect interest on an out-of-state support order. See WAC 388-14A-3304 for the rules regarding the notice of support debt and demand for payment; or

(b) Use a notice of support debt and registration to assess and collect interest on the foreign order. See WAC 388-14A-7100 for the rules regarding registration of a foreign order.

(3) When an out of state order has been submitted for registration for enforcement and modification under UIFSA, DCS uses a notice of support debt and registration to assess and collect interest on the out of state order. See WAC 388-14A-7100 for the rules regarding registration of a foreign support order.

(4) Any hearing held on a notice of support debt and registration which includes a claim for interest is conducted in accordance with WAC ((388-14A-7100(3))) 388-14A-7125 and 388-14A-7115.

(a) WAC ((388-14A-7100(4))) 388-14A-7135 describes the procedures for confirmation of the registered order.

(b) WAC ((388-14A-7100(4))) 388-14A-7135 describes the effect of confirmation of the registered order.

(5) At any time after the notice of support debt and registration becomes a final administrative order, DCS may update the amount of interest as provided in WAC 388-14A-7120.

NEW SECTION

WAC 388-14A-7125 What happens at a hearing on a notice of support debt and registration? A hearing under this section is for the limited purpose of determining if the nonregistering party can prove one or more of the defenses listed in RCW 26.21A.530(1).

(1) If the contesting party presents evidence establishing a full or partial defense under RCW 26.21A.530(1), the presiding officer may:

- (a) Stay enforcement of the registered order;
- (b) Continue the proceeding to allow the parties to gather additional relevant evidence; or
- (c) Issue other appropriate orders.

(2) DCS may enforce an uncontested portion of the registered order by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under RCW 26.21A.530(1) to the validity or enforcement of the order, the presiding officer must issue an order confirming the registered order.

(4) The custodial parent (CP) or payee of the order may participate as a party to any hearing under this section.

NEW SECTION

WAC 388-14A-7135 What is the effect of confirmation of a registered order on the finality of the support debt calculation? (1) Except as provided below in subsections (2) and (3) of this section, confirmation of a registered order precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. Confirmation may occur:

(a) By operation of law upon failure to contest registration; or

(b) By order of the administrative law judge (ALJ).

(2) Confirmation of a registered order that does not include interest does not relieve the noncustodial parent (NCP) of any interest that may have accrued or may accrue under the confirmed order.

(a) If interest is later assessed, the NCP or the custodial parent (CP) may not dispute the confirmed amount of the support debt.

(b) The NCP or CP may dispute the amount of interest due and owing on that confirmed amount by requesting a conference board under WAC 388-14A-6400.

(3) Confirmation of a registered order that does include interest confirms only the amount of debt, including interest, that is due and owing for the indicated time periods. Such confirmation does not relieve the NCP of any interest that may have accrued or may accrue for any other time period.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-7200 DCS can serve notices in other states under the Uniform Interstate Family Support Act.

(1) Except as specified in WAC 388-14A-3105, where grounds for personal jurisdiction exist under (~~RCW 26.21-075~~) RCW 26.21A.100 or other Washington law, the division of child support (DCS) may serve the following legal

actions in another state by certified mail, return receipt requested or by personal service, under chapter (~~26.21~~) 26.21A RCW:

(a) A notice and finding of financial responsibility under WAC 388-14A-3115; and

(b) A notice and finding of parental responsibility under WAC 388-14A-3120;

(c) A notice of paternity test costs under WAC 388-14A-8300; or

(d) An affidavit of birth costs under WAC 388-14A-3555.

(2) A notice and finding of financial responsibility, a notice of paternity test costs, or an affidavit of birth costs becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the noncustodial parent (NCP), within sixty days of service in another state:

(a) Contacts DCS and signs an agreed settlement or consent order; or

(b) Files a written request for a hearing under:

(i) WAC 388-14A-3115 for a notice and finding of financial responsibility;

(ii) WAC 388-14A-3555 for an affidavit of birth costs; or

(iii) WAC 388-14A-8300 for a notice of paternity test costs.

(3) The effective date of a hearing request is the date DCS receives the hearing request.

(4) A notice and finding of parental responsibility becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the NCP, within sixty days of service in another state:

(a) Contacts DCS and signs an agreed settlement or consent order;

(b) Files a written request for a hearing under WAC 388-14A-3120 with DCS; or

(c) Files a written request for paternity testing under WAC 388-14A-8300 to determine if he is the natural father of the dependent child named in the notice and cooperates in the testing. A request for a hearing or paternity testing is filed on the date the request is received by DCS.

(5) If the results of paternity tests requested under subsection (4) of this section do not exclude the NCP as the natural father of the dependent child, the notice and finding of parental responsibility becomes final and subject to immediate wage withholding without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the NCP, within sixty days of service of the paternity test costs in another state:

(a) Contacts DCS and signs an agreed settlement or consent order; or

(b) Files a written request for a hearing under WAC 388-14A-3120.

(6) Administrative law judges and parties must conduct administrative hearings on notices served in another state under this section under the special rules of evidence and procedure in chapter 26.21A RCW and according to chapter 34.05 RCW.

NEW SECTION

WAC 388-14A-7305 How do I ask DCS to do a determination of controlling order? (1) When there are multiple current support orders covering the same obligor and the same children, a party to a support order may request that the division of child support make a determination of controlling order under the Uniform Interstate Family Support Act, chapter 26.21A RCW.

(2) A request for a determination of controlling order may be made at any time, unless there has already been a determination of controlling order for the same obligor and children.

(3) DCS can provide a form which contains all the required elements for a request for determination of controlling order. A request for a determination of controlling order:

- (a) Must be in writing;
- (b) Must contain copies of any child support orders known to the requesting party. DCS waives this requirement if DCS has a true copy of the order on file; and
- (c) State the reason the requesting party thinks DCS is enforcing the wrong order.

(4) A request for determination of controlling order does not constitute a petition for modification of a support order.

NEW SECTION

WAC 388-14A-7315 When might DCS deny a request for a determination of controlling order? (1) The division of child support (DCS) may deny a request for determination of controlling order made by a party to a child support order or another state's IV-D agency for the following reasons:

- (a) There is only one support order for the obligor and the children;
- (b) There is no current support owing under any existing support order for the obligor and the children; or
- (c) There has already been a determination of controlling order performed for the obligor and the children.

(2) The denial of a request for determination of controlling order does not:

- (a) Stop the party or other state's IV-D agency from bringing an action in superior court.
- (b) Give rise to a right to administrative hearing.

NEW SECTION

WAC 388-14A-7325 How does DCS notify the parties of its determination of the controlling order? (1) When the division of child support (DCS) decides that a determination of controlling order is required, DCS reviews the multiple child support orders for the same obligor and children to determine which order should be enforced.

(a) If DCS decides that the order should be enforced is a Washington order, we immediately refer the matter to the superior court for a determination of controlling order proceeding under chapter 26.21A RCW.

(b) If we decide that the order that should be enforced is an order which was not entered in the state of Washington, DCS follows the procedures set out in subsections (2) through (4) of this section.

(2) DCS serves a notice of support debt and registration (NOSDR) as provided in WAC 388-14A-7100. DCS serves the NOSDR on the obligor, the obligee, and on all identified interested parties. The NOSDR includes a determination of controlling order.

(3) DCS serves the notice on the non-requesting party by certified mail, return receipt requested, or by personal service.

(4) DCS serves the notice on the requesting party and other interested parties by first class mail to the last known address.

NEW SECTION

WAC 388-14A-7335 What happens if someone objects to DCS' proposed determination of controlling order? (1) If any party objects to the proposed determination of controlling order issued under WAC 388-14A-7325, that objection must be in writing and signed under penalty of perjury. The division of child support (DCS) provides an objection form with the notice. The objection must contain:

(a) The reason the party objects to the determination of controlling order. Examples of reasons to object include, but are not limited to:

(i) There is another order that was not considered in making the determination;

(ii) The alleged controlling order has been vacated, suspended or modified by a later order, which is attached to the objection;

(iii) The issuing tribunal lacked personal jurisdiction over the non-petitioning party;

(iv) The order was obtained by fraud; or

(v) Any other legal defense available under chapter 26.21A RCW.

(b) A copy of the order which the party believes should be the controlling order, if that order was not included with the notice.

(c) A statement of facts in support of the party's objection.

(2) DCS refers the objection to the prosecuting attorney or attorney general to bring an action for determination of controlling order under RCW 26.21A.130 in the superior court.

NEW SECTION

WAC 388-14A-7345 What is the effect of a determination of controlling order on the finality of the debt calculation? As provided in RCW 26.21A.130, the final order in a proceeding for determination of controlling order operates as a final determination of the total amount of consolidated arrears and accrued interest, if any, under all of the support orders.

NEW SECTION

WAC 388-14A-7400 What can I do if I want to contest an interstate order to withhold income served on my employer? (1) RCW 26.21A.425 provides that a noncustodial parent (NCP) may contest the validity or enforcement of

an income-withholding order issued in another state and received directly by an employer in this state.

(2) Acting as an administrative tribunal under chapter 26.21A RCW, the division of child support (DCS) does not have the authority to quash income-withholding orders.

(3) An NCP who seeks to contest an income-withholding order as described in subsection (1) must seek relief in the superior court under RCW 26.18.140.

NEW SECTION

WAC 388-14A-7500 What can I do if I am concerned about the release of my personal information in an interstate referral? (1) When the division of child support (DCS) refers a case to another state, DCS must provide personal information regarding the parties to that other state. DCS notifies the party residing in Washington that we are preparing to refer your case and that we must release your personal information.

(2) If you believe that it would be dangerous for DCS to release your personal information to the other state, you may make a request for nondisclosure of your personal information under RCW 26.21A.255.

(3) The way DCS handles your request for nondisclosure depends on what version of the Uniform Interstate Family Support Act (UIFSA) has been adopted by the state where DCS is referring your case.

(a) The state may have enacted a version of UIFSA which is similar to the version enacted by the state of Washington as chapter 26.21A RCW (known as "UIFSA 2001"); or

(b) The state may have enacted a version of UIFSA which is similar to the version which was formerly enacted by the state of Washington as chapter 26.21 RCW (known as "UIFSA 1996").

(4) If DCS is making a referral to another state which has enacted UIFSA 2001:

(a) DCS must disclose your personal information to the other state.

(b) DCS sends to the other state a declaration for non-disclosure of information which you have signed under penalty of perjury.

(c) The other state must seal your personal information and may not disclose that information to the other party or to the public unless a tribunal orders disclosure of the information in the interest of justice, after a hearing in which the tribunal considers your (or your child's) health, safety and liberty.

(5) If DCS is making a referral to another state which has enacted UIFSA 1996:

(a) DCS holds a conference board under WAC 388-14A-6400.

(b) If the conference board finds that your (or your child's) health, safety or liberty would be unreasonably put at risk by the disclosure of the information, the conference board issues a non-disclosure finding.

(c) DCS does not disclose your personal information to the other state, and instead provides the other state with the non-disclosure finding.

WSR 07-03-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-02—Filed January 3, 2007, 2:36 p.m., effective January 4, 2007]

Effective Date of Rule: January 4, 2007.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. Prohibition of all diving from licensed sea urchin harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 3, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-07300J Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective January 4, 2007 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 4 and 5, 2007. Sea Urchin Districts 3, 4, 6 and 7 are open only Sunday through Thursday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) Red sea urchins:

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

(b) Sea Urchin District 4 is open only on January 4 and 5, 2007. On January 5, 2007, the maximum daily landing of red sea urchins from Sea Urchin District 4 is 1,100 pounds per valid commercial sea urchin harvest license. In Sea Urchin District 4 it is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size in largest test diameter exclusive of spines).

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

(4) Red and green sea urchins harvested in Sea Urchin Districts 1 and 2 must be landed in Sea Urchin Districts 1 and 2.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective January 4, 2007:

WAC 220-52-07300I Sea urchins. (06-318)

WSR 07-03-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-03—Filed January 8, 2007, 1:56 p.m., effective January 15, 2007, 5:00 p.m.]

Effective Date of Rule: January 15, 2007, 5:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-04600W; 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. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 5, 2007.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-04600X Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046:

1) Effective 5:00 p.m. January 15, 2007 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 and 22B.

2) Effective immediately until further notice it will be unlawful to fish for Dungeness Crab for commercial purposes in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area east of a line from the spiral staircase at Howarth Park due north to the south end of Gedney Island and that portion of 24B east of a line from the north end of Gedney Island to Camano Head and south of a line drawn from Camano Head to Hermosa Point (north end of Tulalip Bay).

3) Effective immediately until further notice, it will be lawful to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area described by a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point, thence due north from the green number 1 buoy at Possession Point to Possession Point.

(b) Effective immediately until further notice, those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area east and north of a line that extends from Possession Point to the green number 1 buoy at Possession Point thence following the 200 foot contour northward to a point due east from the Glendale Dock, thence extending due west to the Whidbey Island shore.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area west of a line that extends from the spiral staircase at Howarth Park due north to the south end of Gedney Island and intersecting a line projected from the outermost tip of the ferry dock at

Mukilteo projected to the green #3 buoy at the mouth of the Snohomish River.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:00 p.m. January 15, 2007:

WAC 220-52-04600W Crab fishery—Seasons and areas. (06-310)

WSR 07-03-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-04—Filed January 10, 2007, 4:01 p.m., effective January 11, 2007]

Effective Date of Rule: January 11, 2007.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. Prohibition of all diving from licensed sea urchin or sea cucumber harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; and 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: January 10, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-07300K Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective January 11, 2007 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1 and 2 are open only on January 11, 12, 14 and 15, 2007. Sea Urchin Districts 3, 4, 6 and 7 are open only on Sunday through Friday of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) Red sea urchins:

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

(b) Sea Urchin District 4 is open only on January 12, 2007. In Sea Urchin District 4 it is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size in largest test diameter exclusive of spines).

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

(4) Red and green sea urchins harvested in Sea Urchin Districts 1 and 2 must be landed in Sea Urchin Districts 1 and 2.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective January 11, 2007:

WAC 220-52-07300J Sea urchins. (07-02)

WSR 07-03-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-05—Filed January 10, 2007, 4:02 p.m., effective January 15, 2007]

Effective Date of Rule: January 15, 2007.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100E; 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 sea cucumber districts listed. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within one day of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 10, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-07100E Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective January 15, 2007 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 Sea Cucumber Districts 1, 2 and 5 on Monday 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.

WSR 07-03-039
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 07-06—Filed January 10, 2007, 4:03 p.m., effective January 10, 2007]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000G and 220-52-04600V; and amending WAC 220-52-040 and 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: The step down provisions for those that fished south of Klipsan Beach will remain in effect. This rule provides for the economic well being of the industry. This meets the crab management plan agreement with tribal entities. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

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

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

Date Adopted: January 10, 2007.

Loreva M. Preuss
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-04000H Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean through January 31, 2007 from any vessel unless:

(a) A valid Washington crab-vessel inspection certificate has been issued to the delivering vessel. Vessel hold inspection certificates dated November 30, 2006, to December 30, 2006, are only valid in Willapa Bay and the coastal waters south of 46°33.00.

(b) The vessel-inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through January 31, 2007.

(2) Notwithstanding the provisions of WAC 220-52-040, it is lawful for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery

through January 10, 2007 at 12:01 a.m. The primary operator of the vessel associated with the pots being transported must be aboard the vessel while they are being deployed. All other provisions of the permanent rule remain in effect.

(3) Notwithstanding the provisions of WAC 220-52-040, effective immediately until 8:00 a.m. February 4, 2007, it is unlawful to possess or deliver Dungeness crab unless the following conditions are met:

(b) Vessels that have participated in the fishery from Klipsan Beach to Point Arena, CA, including Willapa Bay, prior to January 5, 2007, are not permitted to enter the area north of 47°00.00 N. Lat. unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife and provides a vessel-hold inspection if requested by Fish and Wildlife officers prior to entering this area. Prior to entering the area north of 47°00.00 N. Lat., the vessel operator must call 360-249-4628, extension 253, and reports the vessel name, operator name, estimated amount of crab to be delivered, in pounds, and the estimated date, time, and location of delivery 24 hours prior to entering the area.

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.

NEW SECTION

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

(1) The coastal waters from Destruction Island (47°40.50) to the WA/OR border (46°15.00), including the Columbia River, Willapa Bay, and Grays Harbor, are open to fishing for Dungeness crab.

(2) The Quinault primary special management area (QIN SMA) is closed to fishing for Dungeness crab: The QIN SMA includes the coastal waters shoreward of a line approximating the 25-fathom depth curve from Raft River to Copalis River as described by the following coordinates.

- Northeast Corner: 47°28.00 N Lat. - 124°20.70 W Lon.
- Northwest Corner: 47°28.00 N Lat. - 124.33.00 W. Lon.
- Southwest Corner: 47°08.00 N. Lat. - 124°23.50 W. Lon.
- Southeast Corner: 47°08.00 N. Lat. - 124°11.20 W. Lon.

(3) Vessels that have deployed gear in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California to Klipsan Beach, Washington (46°28.00) including the Columbia River and Willapa Bay prior to 8:00 a.m., January 5, 2007 are prohibited from:

- Fishing in the area between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 a.m. January 15, 2007.
- Fishing in the area between Oysterville (46°33.00) and the U.S. Canadian border until 8:00 a.m. February 4, 2007.

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

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

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-------------------|--|
| WAC 220-52-04000G | Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (06-309) |
| WAC 220-52-04600W | Coastal crab seasons. (06-309) |

WSR 07-03-046 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 07-07—Filed January 12, 2007, 11:24 a.m., effective January 15, 2007, 5:00 p.m.]

Effective Date of Rule: January 15, 2007, 5:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600X; and amending WAC 220-56-046.

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. Gear retrieval period is to allow for inclement weather conditions. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 11, 2007.

J. P. Koenings
Director

NEW SECTION

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

1) Effective 5:00 p.m. January 15, 2007 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 and 22B.

2) Effective 5:00 p.m. January 15, 2007 until 5 p.m. January 19, 2007 it will be lawful for crab fishers to remove their gear from those waters of Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B. No crab may be retained, landed from, or possessed from these areas after 5:00 p.m. January 15, 2007.

3) Effective immediately until further notice it will be unlawful to fish for Dungeness Crab for commercial purposes in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area east of a line from the spiral staircase at Howarth Park due north to the south end of Gedney Island and that portion of 24B east of a line from the north end of Gedney Island to Camano Head and south of a line drawn from Camano Head to Hermosa Point (north end of Tulalip Bay).

4) Effective immediately until further notice, it will be lawful to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area described by a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point, thence due north from the green number 1 buoy at Possession Point to Possession Point.

(b) Effective immediately until further notice, those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area east and north of a line that extends from Possession Point to the green number 1 buoy at Possession Point thence following the 200 foot contour northward to a point due east from the Glendale Dock, thence extending due west to the Whidbey Island shore.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area west of a line that extends from the spiral staircase at Howarth Park due north to the south end of Gedney Island and intersecting a line projected from the outermost tip of the ferry dock at Mukilteo projected to the green #3 buoy at the mouth of the Snohomish River.

REPEALER

The following section of the Washington Administrative Code is repealed effective 5:00 p.m. January 15, 2007:

WAC 220-52-04600X Crab fishery—Seasons and areas. (07-03)

**WSR 07-03-071
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed January 17, 2007, 1:11 p.m., effective January 17, 2007]

Effective Date of Rule: Immediately.

Purpose: Where a school district resides in a county which was declared a state of emergency proclamation by the governor and a district-wide closure exists, the superintendent may consider school district application to have met the "reasonable effort" test by providing at least the district-wide annual average total instruction hour offerings (1000 hours).

Statutory Authority for Adoption: RCW 28A.41.170(2).

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: Under the amendment, when the governor has declared a state of emergency school districts that were forced to close in counties where the emergency was declared may not have to make up the days related to that closure. Under current rules, districts must always make up the first three days of any closure incident, and can apply for a waiver of the remaining days of that incident. And even when the three-day makeup requirement is waived in declared emergencies, districts will still have to provide students with the required 1,000-hour minimum for instructional hours. The change should come as a particular relief to districts that were not only hit hard by the floods and windstorms but also now face a new round of days to make up thanks to the recent snow.

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 1, 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 0, Repealed 0.

Date Adopted: January 17, 2007.

Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 22, filed 12/20/89, effective 1/20/90)

WAC 392-129-105 Definition—Reasonable effort. As used in this chapter, "reasonable effort" means the:

(1) Extension of the school year to and through June 14th; and

(2) Use of scheduled vacation days and foreseeable school closure days, to attain the minimum number of school days and (~~program hour offerings, teacher contact hours, and course mix and percentages~~) district-wide annual average total instruction hour offerings required by law. In no case, except as provided in subsection (3) of this section, shall a school district be considered to have made a reasonable effort unless at least three school days, per incident, and (~~program hour offerings, teacher contact hours, and course mix percentage~~) district-wide annual average total instruction hour offerings which have been lost have in fact been made up.

(3) Where a school district resides in a county which was declared a state of emergency proclamation by the governor due to fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption, and the emergency impacted district-wide facilities or operations, the superintendent may consider school district applications to have met the "reasonable effort" test by providing at least the district-wide annual average total instruction hour offerings.

WSR 07-03-076

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 07-09—Filed January 17, 2007, 4:34 p.m., effective January 17, 2007]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Pot limit changes for the commercial crab fishery in the Puget Sound licensing district is to maintain commercial harvest allocation plans. There is insufficient time to promulgate permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 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: January 17, 2007.

J. P. Koenings

Director

NEW SECTION

WAC 220-52-04000I Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, no commercial crab pots are allowed to be set, pulled or fished west of the longitude line 123°7.0' projected from the southern shoreline of Dungeness Spit due south to the shore of Dungeness Bay.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04000B Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. (06-279)

WSR 07-03-097

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 07-08—Filed January 19, 2007, 10:12 a.m., effective January 19, 2007, 12:01 p.m.]

Effective Date of Rule: January 19, 2007, 12:01 p.m.

Purpose: Amend personal use rules.

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

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Area 2. Washington department of health has certified clams from this beach to be safe for human consumption. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Date Adopted: January 17, 2007.

J. P. Koenings
Director

NEW SECTION

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

1. Effective 12:01 p.m. January 19, 2007 through 11:59 p.m. January 21, 2007, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 22, 2007:

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

WSR 07-03-106

EMERGENCY RULES

UNIVERSITY OF WASHINGTON

[Filed January 22, 2007, 9:19 a.m., effective January 25, 2007]

Effective Date of Rule: January 25, 2007.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Per RCW 34.05.350(2), the University of Washington is actively undertaking permanent rule making for these rules as evidenced by its preproposal statement of inquiry (WSR 06-10-016) filed April 24, 2006, its proposed rule making (WSR 06-21-077) filed October 17, 2006, and by the adoption of permanent rules by the university's board of regents on January 18, 2007.

Purpose: To amend the University of Washington's smoking policy and related rules in chapter 478-136 WAC consistent with the provisions of I-901 (chapter 70.160 RCW).

Citation of Existing Rules Affected by this Order: Amending WAC 478-136-012 and 478-136-030.

Statutory Authority for Adoption: RCW 28B.20.130 and chapter 70.160 RCW.

Other Authority: University of Washington Board of Regent's Standing Orders, Chapter 1, Section 2.

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: Immediate adoption of the University of Washington's amended smoking policy is necessary to comply with I-901, Washington Clean Indoor Air Act (chapter 70.160 RCW). These emergency rules are adopted to protect students, faculty, staff, and visitors from exposure to second-hand smoke in their university-associated environments and to protect life and property against fire hazards until the permanent rule takes 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 1, Amended 2, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

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

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

Date Adopted: January 19, 2007.

Rebecca Goodwin Deardorff
Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 02-06-020, filed 2/25/02, effective 3/28/02)

WAC 478-136-012 Definitions. (1) "Facilities" includes all structures, grounds, parking lots, waterfront, and airspace owned or operated by the University of Washington. Specific rules also apply to parking lots, bicycle and skateboard use (chapter 478-116 WAC), boat moorage facilities (chapter 478-138 WAC and *University Handbook*, Volume 4, Part VII, Chapter 3, Section 2), residence halls (chapter 478-156 WAC), airspace use (*University Handbook*, Volume 4, Part VII, Chapter 3, Section 5), nonuniversity speakers on campus (*University Handbook*, Volume 4, Part VII, Chapter 3, Section 4), ((~~smoking~~ (*University Handbook*, Volume 4, Part VII, Chapter 6,)) and use of facilities by the Associated Students University of Washington (ASUW), Graduate and Professional Student Senate (GPSS), and other affected organizations (*University Handbook*, Volume 3, Part III, Chapter 5).

(2) "Use of facilities" includes, but is not limited to: The holding of events, the posting and removal of signs, all forms of advertising, commercial activities, and charitable solicitation.

(3) "Approved event" means a use of university facilities which has received preliminary approval from an academic or administrative unit and which has received final approval from the committee on the use of university facilities.

AMENDATORY SECTION (Amending WSR 06-13-021, filed 6/13/06, effective 7/14/06)

WAC 478-136-030 Limitations on use. (1) Freedom of expression is a highly valued and indispensable quality of university life. However, university facilities may not be used in ways which obstruct or disrupt university operations, the freedom of movement, or any other lawful activities. Additionally, use of university facilities may be subject to reasonable time, place and manner restrictions.

(2) University facilities may be used for events and forums regarding ballot propositions and/or candidates who have filed for public office so long as the event has received preliminary approval by an administrative or academic unit and final approval by the committee on the use of university facilities. There are, however, certain limitations on the use of university facilities for these political activities.

(a) First priority for the use of campus facilities shall be given to regularly scheduled university activities.

(b) University facilities may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office only when the full rental cost of the facility is paid. However, use of state funds for payment of facility rental costs is prohibited.

(c) Forums or debates may be scheduled at full facility rental rates if all parties to a ballot proposition election or all candidates who have filed for office for a given position, regardless of party affiliation, are given equal access to the use of facilities within a reasonable time.

(d) No person shall solicit contributions on university property for political uses, except in instances where this limitation conflicts with applicable federal law regarding interference with the mails.

(e) Public areas outside university buildings may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office, excluding solicitation of funds, provided the other normal business of the university is not disrupted and entrances to and exits from buildings are not blocked.

(f) University facilities or services may not be used to establish or maintain offices or headquarters for political candidates or partisan political causes.

(3) University facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities serve an educational purpose, as determined by the committee on the use of university facilities.

(4) Nothing in these rules is intended to alter or affect the regular advertising, promotional, or underwriting activities carried on, by, or in the regular university media or publications. Policies concerning advertising, promotional or underwriting activities included in these media or publications are under the jurisdiction of and must be approved by their

respective management or, where applicable, advisory committees, in accordance with applicable state and federal laws.

(5) In accordance with WAC 478-136-010, the university will make its facilities available only for purposes related to the educational mission of the university, as determined by the committee on the use of university facilities, including but not limited to instruction, research, public assembly, and student activities. When permission is granted to use university facilities for approved instructional or related purposes, as a condition of approval, the user of university facilities agrees to include in all materials nonendorsement statements in the form approved by the committee on the use of university facilities. "Materials" includes all communications, advertisement, and any other printed, electronic, or broadcast/telecast information related to the user's activities offered in university facilities. The committee will determine the content, size of print and placement of the nonendorsement language. The university will not make its facilities available for instructional or related purposes that compete with courses or programs offered by the university.

(6) Solicitation, or distribution of handbills, pamphlets and similar materials by anyone, whether a member of the university community or of the general public, is not permitted in those areas of campus to which access by the public is restricted or where such solicitation or distribution would significantly impinge upon the primary business being conducted.

(7) Solicitation and distribution of materials in university residence halls are governed by residence hall policies. No solicitation of a commercial nature is permitted in university residence halls. Commercial advertising may be allowed, and is restricted to certain designated areas of each residence hall, when it is related to the university's mission and approved by the department of housing and food services.

(8) Electronic amplification on the grounds of the campus is prohibited with the following exceptions:

(a) The lawn area immediately west of the Husky Union Building will be available for open-air speaking events using directional and volume-controlled speech amplification equipment provided by the university. Use of the Husky Union Building lawn site will be available to registered or official student organizations and faculty or staff groups on a first-come, first-served basis. The amplification system will be issued upon presentation of a currently valid student, faculty or staff identification card at the Husky Union Building Reservation Office.

(b) The committee on the use of university facilities may grant permission, under special circumstances, for the use of other amplification equipment on the lawn site west of the Husky Union Building or in other outdoor locations. Permission should be requested through:

University of Washington
Secretary to the Committee on the
Use of University Facilities
239M Gerberding Hall
Box 351241
Seattle, WA 98195-1241

(or phone: 206-543-9233), sufficiently in advance of the program to allow timely consideration.

(9)(a) No person may use university facilities to camp, except if permission to do so has been granted in accordance with the provisions of chapters 478-116 and 478-136 WAC or except as provided in (b) of this subsection. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. Violators are subject to arrest and criminal prosecution under applicable state, county and city laws.

(b) This provision does not prohibit use of the university residence facilities in accordance with chapter 478-156 WAC or the use of facilities where the employee remains overnight to fulfill the responsibilities of his or her position or where a student remains overnight to fulfill the requirements of his or her course of study.

(10) Within the limits of applicable laws, the University of Washington is committed to establishing and maintaining safe conditions for persons attending football games in Husky Stadium or other athletic events or concerts in campus facilities. Accordingly, the rules enumerated below will apply to all such events and be strictly enforced.

(a) The possession or consumption of alcoholic beverages or illegal drugs is prohibited, except for alcohol allowed under a permit or license obtained under subsection (13) of this section. In addition to having the beverages or drugs confiscated, violators may be subject to university disciplinary action and/or legal proceedings, and removal from the events.

(b) Air horns, glass bottles, cans, picnic baskets, bota bags, ice chests, and thermoses (in excess of two-quart capacity) are prohibited. Individuals possessing such will not be admitted to, or will be removed from, Husky Stadium or other athletic or concert facilities until the items have been stored temporarily at locations provided for that purpose or disposed of in some other manner.

(c) Except for designated outdoor smoking sites, as provided in WAC 478-136-035, smoking is prohibited in ((the seating areas of)) all portions of all athletic stadia, including, but not limited to, the seating areas, public concourses, and enclosed and covered spaces. ((Smoking is permitted on pedestrian concourses.))

(d) All persons entering events in Husky Stadium or other athletic venues or events in other campus auditoria or facilities shall be subject to having all containers, bags, backpacks, coolers, or similar items visually inspected. Security personnel shall first ask permission to visually inspect the item and advise the person that he/she may refuse. Persons who refuse to allow inspection shall be allowed to return the item to a vehicle or otherwise dispose of it, after which admission shall be allowed. Persons who refuse the visual inspection and refuse to dispose of the item shall be denied entry.

(11) Only public service announcements and acknowledgment of sponsors will be allowed on scoreboards at athletic venues.

(a) For purposes of this section, a public service announcement is defined as an announcement which promotes the activities or services of federal, state or local governments, including the University of Washington, or non-

profit organizations, or generally contributes to the community's welfare and interests.

(b) In acknowledgment of their sponsorship of the scoreboards or sponsorship of events and programs, sponsors may propose public service announcements for display on the scoreboard during athletic events. The public service announcement may be accompanied by a sponsor's name or logo, but in keeping with university policy may not directly promote the products or services of the company. The text and graphics of public service announcements must be submitted at least three days in advance to the department of intercollegiate athletics for approval by the university.

(c) In addition to these public service announcements, sponsors also may be acknowledged by the display of corporate logos, trademarks, or other approved messages upon panels located on the scoreboard.

~~(12) ((The University of Washington is committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. Accordingly, the University of Washington establishes the following smoking policy to protect nonsmokers from exposure to smoke in their university-associated environments and to protect life and property against fire hazards:~~

~~(a) Except as provided in subsections (10)(c) and (12)(b) of this section, smoking is prohibited in all university vehicles, inside all buildings owned or occupied by the university and/or used by the university's faculty, staff or students and at any outside areas or locations that may directly or indirectly affect the air supply of buildings or carry smoke into buildings.~~

~~(b) Smoking may be permitted in student rooms in university residence halls and apartments in university student housing in accordance with smoking regulations established for those facilities by the vice president for student affairs.~~

~~(c) The director of environmental health and safety may designate specific outdoor locations as no smoking areas.~~

~~(d) Any student, staff, or faculty member who violates the university smoking policy may be subject to disciplinary action. In addition, violations of the university smoking policy may be subject to enforcement by the University of Washington police department.~~

~~(13))~~ Alcoholic beverages may be possessed, sold, served, and consumed at university facilities only if the procedures set forth in this section are followed.

(a) The appropriate permits/licenses for possession, sale, service, and consumption of alcohol must be obtained from the Washington state liquor control board.

(b) Permits/licenses must be displayed during the event and all other guidelines and restrictions established by the Washington state liquor control board must be followed.

(c) Alcoholic beverages may be possessed, sold, served, and consumed at the faculty center, as so designated by the university board of regents to the Washington state liquor control board, pursuant to a spirits, beer, and wine private club license issued by the Washington state liquor control board.

(d) Alcoholic beverages may be possessed, sold, served, and consumed at university facilities leased to a commercial tenant under a lease that includes authorization for the tenant

to apply and hold a license issued by the Washington state liquor control board.

(e) Except as provided in (c) and (d) of this subsection, alcoholic beverages may be possessed, sold, served, and consumed at university facilities only under permits/licenses issued by the Washington state liquor control board and only as follows:

(i) Events at which alcohol is to be sold must be approved by the committee on the use of university facilities and an application to the committee must be accompanied by a request for written authorization under (f) of this subsection or proof that the seller holds an appropriate license; and

(ii) Events at athletic venues at which alcohol is to be possessed, sold, served, or consumed must not be within the spectator viewing areas and must have restricted attendance, and a university unit, or an individual or organization applying for a permit/license must have obtained approval under (f) of this subsection; and

(iii) A university unit, or an individual or organization applying for a permit/license must have obtained approval under (f) of this subsection; and

(iv) Sale, service, and consumption of alcohol is to be confined to specified room(s) or area(s) specified on the license or permit. Unopened containers may not be sold or served. No alcohol is permitted to be taken off-premises.

(f) Written authorization to apply for a special occasion license to sell alcoholic beverages or a banquet permit to serve and consume alcoholic beverages at university facilities must be obtained from the committee on the use of university facilities prior to applying for a special occasion license or banquet permit from the Washington state liquor control board. Authorization should be requested through the University of Washington, secretary to the committee on the use of university facilities, sufficiently in advance of the program to allow timely consideration. (Note: Some license applications must be filed with the Washington state liquor control board at least thirty days or more before the event.) Written authorization to apply for such a permit/license shall accompany the application filed with the Washington state liquor control board.

(g) Consumption, possession, dispensation, or sale of alcohol is prohibited except for persons of legal age.

NEW SECTION

WAC 478-136-035 No smoking policy for university facilities. (1) The University of Washington is committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. Accordingly, the University of Washington establishes the following no smoking policy, consistent with chapter 70.160 RCW (I-901), to protect individuals from exposure to second-hand smoke in their university-associated environments and to protect life and property against fire hazards.

(a) Except as provided in subsection (1)(b) and (c) of this section, smoking of all kinds is prohibited in all university facilities, including, but not limited to, vehicles, inside all buildings owned, occupied, or managed by the university and/or used by the university's faculty, staff, students, or vis-

itors, and at any outside areas or locations, including, but not limited to, bus shelters, benches, and walkways.

(b) Smoking, while not permitted in on-campus residence halls, may be permitted in a limited portion of designated university student housing in accordance with smoking regulations established for those facilities by the vice-provost for student life.

(c) Smoking may be permitted in specific designated outdoor locations approved by the director of environmental health and safety as smoking areas in accordance with chapter 70.160 RCW and published on the environmental health and safety web site. Signage also identifies the designated locations.

(2) Violations of the university no smoking policy are subject to enforcement by the University of Washington police department or other jurisdictional law enforcement agencies with regulatory responsibility. In addition, any student, staff, or faculty member who violates the university no smoking policy may be subject to disciplinary action.

WSR 07-03-125

EMERGENCY RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 22, 2007, 4:31 p.m., effective January 22, 2007]

Effective Date of Rule: Immediately.

Purpose: Chapter 296-17 WAC, General reporting rules, classifications, audit, and recordkeeping, rates and rating system for Washington workers' compensation insurance (2007 workers' compensation premium rates), this emergency rule-making order will add WAC 296-17-891, 296-17-86505, and 296-17-86507.

Citation of Existing Rules Affected by this Order: New sections WAC 296-17-891, 296-17-86505, and 296-17-86507.

Statutory Authority for Adoption: RCW 51.16.035 Base rates, 51.32.073 Supplemental pension, 51.08.010 Retrospective rating and 51.04.020(1) General authority.

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: During the implementation of the 2007 rates and any necessary table adjustments, we did not identify the claim-free employers with a potential negative impact. This caused 2007 rates to go up for some employers who have not had a compensable claim during the three-year experience rating period. A new claim-free table is being added, WAC 296-17-891; and WAC 296-17-86505 and 296-17-86507 are being added to provide language explaining the role the new claim-free discount table plays in the calculation of the experience modification factor for comparison of years 2006 and 2007. Without this emergency rule making we would continue to collect premiums above and beyond what we committed to in the recent rates notice.

Therefore, these rules are necessary to ensure we are collecting appropriate premiums and the general welfare of those that are covered by the industrial insurance laws.

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 3, 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 3, Amended 0, Repealed 0.

Date Adopted: January 22, 2007.

Judy Schurke
Acting Director

NEW SECTION

WAC 296-17-891 Table IV-A.

**Alternate "old" 2007 method
Maximum experience modifications
for firms with no compensable accidents:
Effective 1/1/2007 to 12/31/2007**

| Expected Loss Range | Maximum Experience Modification |
|---------------------|---------------------------------|
| 1 - 2,995 | 0.90 |
| 2,996 - 3,644 | 0.89 |
| 3,645 - 4,322 | 0.88 |
| 4,323 - 5,031 | 0.87 |
| 5,032 - 5,777 | 0.86 |
| 5,778 - 6,558 | 0.85 |
| 6,559 - 7,381 | 0.84 |
| 7,382 - 8,246 | 0.83 |
| 8,247 - 9,157 | 0.82 |
| 9,158 - 10,120 | 0.81 |
| 10,121 - 11,137 | 0.80 |
| 11,138 - 12,214 | 0.79 |
| 12,215 - 13,355 | 0.78 |
| 13,356 - 14,569 | 0.77 |
| 14,570 - 15,860 | 0.76 |
| 15,861 - 17,237 | 0.75 |
| 17,238 - 18,708 | 0.74 |
| 18,709 - 20,285 | 0.73 |
| 20,286 - 21,977 | 0.72 |
| 21,978 - 23,799 | 0.71 |

| Expected Loss Range | Maximum Experience Modification |
|---------------------|---------------------------------|
| 23,800 - 25,767 | 0.70 |
| 25,768 - 27,898 | 0.69 |
| 27,899 - 30,213 | 0.68 |
| 30,214 - 32,738 | 0.67 |
| 32,739 - 35,502 | 0.66 |
| 35,503 - 38,542 | 0.65 |
| 38,543 - 41,900 | 0.64 |
| 41,901 - 45,629 | 0.63 |
| 45,630 - 49,793 | 0.62 |
| 49,794 - 54,476 | 0.61 |
| 54,477 & Higher | 0.60 |

NEW SECTION

WAC 296-17-86505 2007 Alternative claim-free experience modification calculation. The following experience modification factor calculation is similar to the experience rating calculation used in 2006 for employers with no compensable accident during the experience period. The experience modification factor shall be calculated the same way as WAC 296-17-860 with the following exceptions:

(1) In WAC 296-17-885, the Expected Loss Rate and Primary Ratio Table IIIA shall be used instead of Table III.

(2) The Maximum Experience Modification Table IVA in WAC 296-17-891 shall be used instead of Table IV in WAC 296-17-890.

NEW SECTION

WAC 296-17-86507 2007 Claim-free experience modification phase-in limitation. For calendar year 2007, if the experience modification factor using WAC 296-17-860 is greater than 100% of the experience modification factor using WAC 296-17-86505, then the experience modification factor shall be limited to 100% of the factor using WAC 296-17-86505.