

WSR 15-05-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-23—Filed February 5, 2015, 12:54 p.m., effective February 5, 2015, 12:54 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-310-200 and 220-310-195.

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: Hatchery-origin steelhead in excess of desired escapement have returned to the upper Columbia River. The fishery will reduce the number of excess hatchery-origin steelhead and consequently increase the proportion of natural-origin steelhead on the spawning grounds. Allowing retention of hatchery steelhead will provide for additional angling opportunity. Sections of the Okanogan River will close early to protect natural origin steelhead staging prior to spawning within those tributaries. There is insufficient time to adopt 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: February 5, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-310-2000B Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-310-200, effective immediately until further notice, it is permissible to fish for steelhead in the Columbia River from Rock Island Dam to 400 feet below Chief Joseph Dam with the following restrictions:

(1) Mandatory retention of adipose fin clipped steelhead, daily limit two (2) hatchery steelhead, 20 inch minimum size.

Hatchery steelhead are identified by a missing adipose fin with a healed scar in its location.

(2) Adipose present steelhead must be released unharmed and cannot be removed from the water prior to release.

(3) Night closure and selective gear rules remain in effect, except bait is permissible.

(4) Release all steelhead with a floy (anchor) tag attached and/or one or more round 1/4 inch in diameter holes punched in the caudal (tail) fin.

NEW SECTION

WAC 220-310-19500K Freshwater exceptions to statewide rules—Wenatchee, Methow Entiat and Okanogan rivers. Notwithstanding the provisions of WAC 220-310-195, effective immediately until further notice, the following provisions are in effect. Unless otherwise amended, all permanent rules remain in effect:

(1) Mandatory retention of adipose fin clipped steelhead, daily limit two (2) hatchery steelhead, 20 inch minimum size. Hatchery steelhead are identified by a missing adipose fin with a healed scar in its location.

(2) Adipose present steelhead must be released unharmed and cannot be removed from the water prior to release.

(3) Night closure and selective gear rules remain in effect.

(4) Release all steelhead with a floy (anchor) tag attached and/or one or more round 1/4 inch in diameter holes punched in the caudal (tail) fin.

(a) It is permissible to fish for steelhead in the Wenatchee River from the mouth to the Wenatchee River at the Icicle Road Bridge, including the Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam.

(b) It is permissible to fish for steelhead in the Entiat River from the mouth to a 1/2 mile upstream to a point perpendicular with the intersection of the Entiat River Road and Hedding Street.

(c) It is permissible to fish for steelhead in the the Methow River from the mouth to the confluence with the Chewuch River in Winthrop. Fishing from a floating device is prohibited from the second powerline crossing (1 mile upstream from the mouth) to the first Hwy 153 Bridge (4 miles upstream from the mouth).

(d) It is permissible to fish for steelhead in the Okanogan River from the mouth upstream to the Highway 97 Bridge in Oroville.

(e) It is permissible to fish for steelhead in the Similkameen River from the mouth upstream to 400 feet below Enloe Dam.

(5) Effective one hour before official sunrise on March 1, 2015, until further notice the following areas are closed to steelhead fishing:

(a) Those waters of the Okanogan River From the first power line crossing downstream of the Highway 155 Bridge in Omak (Coulee Dam Credit Union Building) to the mouth of Omak Creek.

(b) Those waters of the Okanogan River from the Tonasket Bridge (4th street) downstream to the Tonasket Lagoons Park boat launch.

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

WSR 15-05-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-24—Filed February 6, 2015, 12:05 p.m., effective February 6, 2015, 12:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules for sea urchins.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 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 surpluses of green and red sea urchins exist in the sea urchin districts specified to allow for commercial harvest. There is insufficient time to adopt 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: February 6, 2015.

Joe Stohr
for J. W. Unsworth
Director

NEW SECTION

WAC 220-52-07300P Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins

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

(1) The following area is open to red sea urchin harvest seven days-per-week: district 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. It is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) The following areas are open to green sea urchin harvest seven days-per-week: district 1, district 2, district 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and district 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

REPEALER

The following section of the Washington Administrative code is repealed:

WAC 220-52-07300N Sea urchins. (15-22)

WSR 15-05-021
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 9, 2015, 1:58 p.m., effective February 9, 2015, 1:58 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amended rule provides clarification to state-tribal education compact submission deadlines.

Citation of Existing Rules Affected by this Order: Amending WAC 392-800-825.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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: WAC 392-800-825 requires federally recognized tribes or Bureau of Indian Education schools seeking approval of a state-tribal education compact to submit an application to the office of superintendent of public instruction by February 1. These proposed changes to WAC 392-800-825 will keep the tribal compact application deadline at February 1, but institute a deadline of June 30 by which point the tribal compact agreement must be agreed to and signed off on by both parties. If an agreement is not executed by June 30, then the tribal school would have to reapply by February 1 of the following year.

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 1, Repealed 0.

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

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

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

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

Date Adopted: January 16, 2015.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 14-04-001, filed 1/22/14, effective 2/22/14)

WAC 392-800-825 Application—Approval process—Timeline. (1) Beginning in February 2014, eligible federally recognized tribes or BIE schools may apply to the superintendent of public instruction to initiate negotiations to enact a state-tribal education compact.

(2) Federally recognized tribes or BIE schools seeking approval of a state-tribal education compact must submit the application to the superintendent of public instruction by February 1st of the school year preceding the year in which the federally recognized tribes or BIE school seeks to commence operation of a compact school. ~~((Federally recognized tribes or BIE schools seeking to commence operation of a compact school in 2014 must submit an application by April 15, 2014.))~~

(3) The application must be hand delivered or mailed to the superintendent of public instruction at the following address:

Superintendent of Public Instruction
600 Washington Street S.E.
P.O. Box 47200
Olympia, WA 98504

(4) Within ninety days of his or her receipt of the application, the superintendent of public instruction will convene a government-to-government meeting for the purpose of considering the application and initiating negotiations.

(5) The superintendent of public instruction will approve or disapprove state-tribal education compact applications no later than April 15th of the school year, as defined by WAC 392-121-031, in which the federally recognized tribe or BIE school intends to commence operation of a compact school. The superintendent of public instruction's approval or disapproval of the application shall constitute final agency action.

(6) State-tribal education compacts must be executed by the superintendent of public instruction and the federally recognized tribe or BIE school governing body on or before June 30th prior to the operation of a compact school commences.

WSR 15-05-026
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-25—Filed February 9, 2015, 4:28 p.m., effective February 15, 2015, 12:01 p.m.]

Effective Date of Rule: February 15, 2015, 12:01 p.m.

Purpose: Amend recreational fishing rules for razor clams.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 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 razor clams are available for recreational harvest in Razor Clam Areas 1, 3, 4 and 5. Washington department of health has certified clams from these beaches are safe for human consumption. There is insufficient time to adopt 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: February 9, 2015.

J. W. Unsworth
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, 3, 4, or 5, except as provided for in this section:

(1) Effective 12:01 p.m. February 15, 2015 through 11:59 p.m. February 22, 2015, razor clam digging is permissible in Razor Clam Area 1. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. February 15, 2015 through 11:59 p.m. February 22, 2015, razor clam digging is permis-

sible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. February 21, 2015 through 11:59 p.m. February 21, 2015 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) Effective 12:01 p.m. February 20, 2015 through 11:59 p.m. February 22, 2015 razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 23, 2015:

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

WSR 15-05-031
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 10, 2015, 10:33 a.m., effective February 10, 2015, 10:33 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Immediate rule adoption is required to allow students that are enrolled in a jobs for Washington's graduates program to also be enroll[ed] in an open doors [1418] program. The proposed WAC change would allow for this concurrent enrollment.

Further changes are needed to address district's requirement to award credit received through an open doors [1418] program and to further clarify the program's requirements.

Reviser's note: The brackets and enclosed material in the text above occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Citation of Existing Rules Affected by this Order: Amending WAC 392-700-015, 392-700-035, 392-700-137, and 392-700-160.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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: [No information supplied by agency.]

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 4, Repealed 0.

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

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

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

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

Date Adopted: February 5, 2015.

Randy Dorn
State Superintendent

AMENDATORY SECTION (Amending WSR 14-22-073, filed 11/3/14, effective 12/4/14)

WAC 392-700-015 Definitions. The following definitions in this section apply throughout this chapter:

(1) **"Agency"** means an educational service district, nonprofit community-based organization, or public entity other than a college.

(2) **"Annual average full-time equivalent (AAFTE)"** means the total (~~(student)~~) monthly full-time equivalent (FTE) reported for each enrolled student in a school year divided by ten.

(3) **"Attendance period requirement"** is defined as, at minimum, two hours of face-to-face interaction with a designated program staff for the purpose of instruction, academic counseling, career counseling, or case management contact aggregated over the prior month.

(4) **"CEDARS"** refers to comprehensive educational data and research system, the statewide longitudinal data system of educational data for K-12 student information.

(5) **"College"** means college or technical college pursuant to chapters 28B.20 through 28B.50 RCW.

(6) **"Consortium"** means a regional group of organizations that will consist of districts, and agencies and/or colleges who agree to work together to create and operate a program that will serve students from multiple districts and reduce the administrative burden on districts.

(7) **"Consortium agreement"** means the agreement that is signed by the authorized consortium lead and all district superintendents or their authorized officials which are part of the consortium and agree to refer eligible students to the consortium's program. This agreement will clearly outline the responsibilities of the consortium lead and those of the referring districts.

(8) **"Consortium lead"** means the lead organization in a consortium that will assume the responsibilities outlined in WAC 392-700-042(3).

(9) **"Count day"** is the instructional day that is used to claim a program's enrollment for state funding pursuant to WAC 392-121-033. For September, the count day is the fourth instructional day. For the remaining months, the count day is the first instructional day.

(10) **"Credential"** is identified as one of the following:

- (a) High school equivalency certificate;
- (b) High school diploma;
- (c) College certificate received after completion of a college program requiring at least forty hours of instruction;

(d) College degree; or

(e) Industry recognized certificate of completion of training or licensing received after completion of a program requiring at least forty hours of instruction.

(11) **"Enrolled student"** is an eligible student whose enrollment and attendance meets the criteria ~~((adopted by the office of superintendent of public instruction (OSPI) specifically for the program and))~~ outlined in WAC 392-700-035 and 392-700-160, and is reported as an FTE for state funding.

(12) **"ERDC"** refers to education research and data center, which conducts analyses of early learning, K-12, and higher education programs and education issues across the P-20 system that collaborates with legislative evaluation and accountability program and other statutory partner agencies.

(13) **"Full-time equivalent (FTE)"** is the measurement of enrollment that an enrolled student can be claimed on a monthly basis with the maximum being 1.0 FTE per month for each student enrolled in a program.

(14) **"Indicator of academic progress"** means standard academic benchmarks that ~~((are measures of))~~ demonstrates academic performance ~~((which are))~~ attained by reengagement students. These indicators will be tracked and reported by the program and district for each student and for programs as a whole using definitions and procedures outlined by OSPI. Indicators of academic progress will be reported when a student does one of the following:

(a) Passes one or more high school equivalency certificate measures (each measure may only be claimed once per enrolled student), or other state assessment;

(b) Earns high school credit or college credit;

(c) Makes a significant gain in math and/or reading skills level based on the assessment tool's determination of significant gain (may be claimed multiple times in a year per enrolled student);

(d) Completes approved college readiness course work with documentation of competency attainment;

(e) Completes job search and job retention course work with documentation of competency attainment;

(f) Successfully completes a paid or unpaid work based learning experience of at least forty-five hours. This experience must meet the requirements of WAC 392-410-315(2);

(g) Enrolls in a college level class other than adult basic education (ABE), high school equivalency certificate, or English as a second language (ESL) class; or

(h) Transitions from an ESL class to ABE or high school equivalency certificate class;

(i) Transitions from ABE or high school equivalency certificate class to a below one hundred level math or English class;

(j) Transitions from a below one hundred level math or English class to the next below one hundred level math or English class or from a below one hundred level math or English class to college level math or English class; and

(k) Transitions from ABE or high school equivalency certificate class to a college level class (other than English or math).

(15) **"Instructional staff"** means the following:

(a) For programs operated by a district, the instructional staff is a certificated instructional staff pursuant to WAC 392-121-205;

(b) For programs operated by a college, the instructional staff is one who is employed or appointed by the college whose required credentials are established by the college; and

(c) For programs operated by an agency, the instructional staff is one who is employed or appointed by the agency whose required credentials are established by the agency.

(16) **"Letter of intent"** means the document signed by the district, college or lead agency authorized official that specifically outlines to OSPI the required elements of a program that the district, college, or agency agree to implement.

(17) **"Noninstructional staff"** is any person employed in a position that is not an instructional staff as defined under subsection (13) of this section.

(18) **"OSPI"** means the office of superintendent of public instruction.

(19) **"Program"** means a statewide dropout reengagement program approved by OSPI, pursuant to RCW 28A.175.105.

~~(20) ("School week" means any seven-day calendar period starting with Sunday and continuing through Saturday.~~

~~(21))~~ **"School year"** is the twelve-month period that begins September 1st and ends August 31st during which instruction is provided and FTE is reported.

~~((22))~~ (21) **"Scope of work"** means the document signed by district superintendent or their authorized official and the authorized official of a program to be included in a contracted services agreement when the program is operated by a provider on behalf of the district and will receive compensation in accordance with WAC 392-700-165. The scope of work will specifically outline all the required elements of a program that the provider and the district agree to implement.

~~((23))~~ (22) **"Weekly status check"** means individual communication from a designated program staff to a student. Weekly status check:

(a) Can be accomplished in person or through the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(b) Must be for the purposes of instruction, academic counseling, career counseling, or case management;

(c) Must be documented; and

(d) Must occur at least once ~~((during a school week))~~ every week that has at least three days of instruction.

AMENDATORY SECTION (Amending WSR 14-22-073, filed 11/3/14, effective 12/4/14)

WAC 392-700-035 Student eligibility. (1) Students are eligible to enroll in a program when they meet the following criteria:

(a) Under twenty-one years of age, but at least sixteen years of age, as of September 1st;

(b) Have not yet met the high school graduation requirements of either the district, or the college under RCW 28B.50.535; and

(c) Are significantly behind in credit as outlined below:

(i) Students who, based on their expected graduation date, participated or could have participated in up to two full

years of high school must have an earned to attempted credit ratio that is sixty-five percent or less; or

(ii) Students who, based on their expected graduation date, participated or could have participated in more than two full years of high school must have an earned to attempted ratio that is seventy-five percent or less.

(2) If not credit deficient as outlined in subsection (1)(c) of this section, have been:

(a) Recommended for enrollment by case managers from the department of social and health services, the juvenile justice system, district approved school personnel, or staff from community agencies which provide educational advocacy services;

(b) Are not currently enrolled in any high school or other educational program, excluding an approved skill center program, a jobs for Washington's graduate program, or running start program, receiving state basic education funding; and

(c) Released from their district of residence and accepted by the serving district, if the program is operated by a different district.

(3) Once determined eligible for enrolling in the program, a student will retain eligibility, regardless of breaks in enrollment, until the student does one of the following:

(a) Earns a high school diploma;

(b) Earns an associate degree;

(c) Becomes ineligible because of age which occurs when a student is twenty-one years of age as of September 1st.

(4) A student's eligibility does not guarantee enrollment or continued enrollment in specific programs if the program determines that the student does not meet the program's enrollment criteria or if, after enrollment, a student's academic performance or conduct does not meet established program guidelines.

AMENDATORY SECTION (Amending WSR 14-22-073, filed 11/3/14, effective 12/4/14)

WAC 392-700-137 Award of credit. (1) For programs operated by districts and agencies, high school credit will be awarded for all course work in which students are enrolled, including high school equivalency certificate preparation, in accordance with the following:

(a) Determination of credit will take place on a quarterly basis with quarters defined as follows:

(i) September through November;

(ii) December through February;

(iii) March through May; and

(iv) June through August.

(b) Credit will be awarded at the end of each quarter, in accordance with the following guidelines, if the student has been enrolled for at least one month of the quarter:

(i) A maximum of 0.5 high school elective credits will be awarded when a student passes one or more standardized high school equivalency certificate pretests during the quarter and the instructional staff has assessed student learning and determined that a course of study has been successfully completed.

(ii) A 0.5 high school elective credit will be awarded when a student makes a statistically significant standardized

assessment post-test gain in a specific subject area during the quarter and the following conditions are met:

(A) The student's standardized skills assessment score at the beginning of the quarter demonstrated high school level skills; and

(B) The instructional staff has assessed student learning and determined that a course of study has been successfully completed. A maximum of 1.0 credit may be awarded for such subject gains in a quarter.

(iii) High school elective credit ranging from at least 0.1 credits to no more than 0.25 credits will be awarded for completion of a work readiness or college readiness curriculum in which the student has demonstrated mastery of specific competencies. The district and the agency will determine the amount of credit to be awarded for each course of study based on the competencies to be attained.

(iv) For students taking part in district approved subject-specific credit recovery course work, the amount and type of credit to be awarded will be defined by the district.

(v) The district (~~may elect to~~) must award credit for (~~other~~) course work provided by the agency with amount of credit to be awarded determined in advance, based on the agency's instructional staff's recommendation and on a district review of the curriculum and intended learning outcomes. Credit will only be awarded when:

(A) The student's standardized skills assessment score at the start of the quarter demonstrates high school level skills; and

(B) The instructional staff has assessed student learning and determined that the course of study has been successfully completed.

(2) For programs operated by colleges, high school credit will be awarded for course work in which students are enrolled, in accordance with the following:

(a) The district and the college will determine whether the high school diploma will be awarded by the district or by the college as part of the college's high school completion program.

(b) If the college is awarding the diploma:

(i) 1.0 high school credit will be awarded for successful completion of every five quarter or three semester hours of college course work at or above the one hundred level. The college will determine the type of credit;

(ii) 1.0 high school credit will be awarded for successful completion of every five quarter or three semester hours of below one hundred level course work at a college but has been determined by the college to be at the ninth grade level or higher. The college will determine the type of credit. College based high school equivalency certificate and adult basic education (ABE) classes will not be included in this category;

(iii) 0.5 elective credits will be awarded for successful completion of every five quarter or three semester hours of high school equivalency certificate course work; and

(iv) ABE courses or other college courses that have been determined to be below the ninth grade level that does not generate high school credit will be counted as part of the program's instructional programming for the purposes of calculating FTE.

(c) If the district is awarding the diploma:

(i) 1.0 high school credit will be awarded for successful completion of every five quarter or three semester hours of below one hundred level course work at a college. The district will determine the type of credit;

(ii) 0.5 or 1.0 high school credit will be awarded for successful completion of every five quarter or three semester hours of below one hundred level course work at a college but has been determined by the district to be at the ninth grade level or higher. The district will determine the type and amount of credit for each class. College based high school equivalency certificate and ABE classes will not be included in this category;

(iii) 0.5 elective credits will be awarded for successful completion of every five quarter or three semester hours of high school equivalency certificate course work; and

(iv) ABE courses or other college courses that have been determined to be below the ninth grade level will not generate high school credit but the college credits associated with these courses will be included in the total credit count used to calculate and report student FTE.

(3) The district is responsible for reporting all high school credits earned by students in accordance with OSPI regulations. College transcripts and other student records requested by the district will be provided by the college or agency as needed to facilitate this process.

(4) The district will ensure that the process for awarding high school credits under this scope of work is implemented as part of the district's policy regarding award of credits per WAC 180-51-050 (5) and (6).

AMENDATORY SECTION (Amending WSR 14-22-073, filed 11/3/14, effective 12/4/14)

WAC 392-700-160 Reporting of student enrollment.

(1) For all programs, the following will apply when reporting student enrollment for each monthly count day:

(a) Met all eligibility criteria pursuant to WAC 392-700-035;

(b) Been accepted for enrollment by the reporting district or the direct funded technical college;

(c) Enrolled in an approved program pursuant to WAC 392-700-042;

(d) Met the attendance period requirement pursuant to WAC 392-700-015(3);

(e) Met the weekly status check requirement pursuant to WAC 392-700-015(~~((23))~~) (22);

(f) Has not withdrawn or been dropped prior to the monthly count day;

(g) Is not enrolled in course work that has been reported by a college for postsecondary funding;

(h) Is not (~~enrolled at~~) eligible to be counted by a state institution ((on count day and reported by a state institution for funding)) pursuant to WAC 392-122-221.

(i) Is not enrolled in a high school program, including alternative learning experience (~~(or)~~) college in the high school, or another reengagement program, excluding jobs for Washington's graduate program.

(j) If concurrently enrolled in a skills center program or running start program, does not exceed the FTE limitation pursuant to WAC 392-121-136;

(k) A student's enrollment in the program is limited to the following:

(i) May not exceed 1.0 FTE in any month (including nonvocational and vocational FTE). If concurrently enrolled in a jobs for Washington's graduates program, the combined FTE does not exceed 1.0 FTE in any month.

(ii) May not exceed 1.00 AAFTE in any school year as defined in WAC 392-700-015(2). If concurrently enrolled in a jobs for Washington's graduates program, the combined AAFTE does not exceed 1.0 AAFTE for the school year.

(2) For all below one hundred level classes, the student enrollment is dependent upon attaining satisfactory progress during any three month period that a student is reported as 1.0 FTE.

(a) Satisfactory progress is defined as the documented attainment of at least one credential identified in WAC 392-700-015(10) and/or of at least one indicator of academic progress identified in WAC 392-700-015(14).

(b) A student who after any three month period of being counted for a 1.0 FTE has not attained a credential or an indicator of academic progress cannot be counted until a credential or an indicator of academic progress is earned.

(i) During this reporting exclusion period, the program may elect to permit the student to continue to attend;

(ii) When the student achieves a credential or an indicator of academic progress, the student (~~enrollment may resume to be reported~~) may be claimed for funding for the following month. A new three month period for attaining a credential or an indicator of academic progress begins; and

(iii) Rules governing the calculation of the three month period are:

(A) The three month period may occur in two different school years, if the student is enrolled in consecutive school years; and

(B) The three month period is not limited to consecutive months, if there is a break in the student's enrollment.

(3) For below one hundred level classes, student enrollment will be reported as follows:

(a) When the program's total planned hours of instruction pursuant to WAC 392-700-155 for the school year equals or exceeds nine hundred hours:

(i) The program is considered a full-time program; and

(ii) An enrolled student is a full-time student and is reported as 1.0 FTE on each monthly count day.

(b) Enrollment in below one hundred level classes is limited to nonvocational funding and the FTE cannot be claimed as vocational.

(4) For college level classes, student enrollment will be reported as follows:

(a) The FTE is determined by the student's enrolled credits on each monthly count day.

(i) Fifteen college credits equal 1.0 FTE;

(ii) A student enrolled in more than fifteen college credits is limited to be reported as 1.0 FTE for that month; and

(iii) If a student is enrolled for less than fifteen college credits, the FTE is calculated by dividing the enrolled college credits by fifteen.

(b) Enrollment in state approved vocational college level classes and taught by a certified vocational instructor can be claimed for enhanced vocational funding as a vocational FTE.

WSR 15-05-032

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Filed February 10, 2015, 3:14 p.m., effective February 10, 2015, 3:14 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: In the interest of protecting the commercial poultry industry, small poultry farms, and poultry fanciers in Washington state from highly pathogenic avian influenza (HPAI), movement restrictions were placed on poultry and poultry products in a designated quarantine zone in Clallam County. The quarantine has been released; therefore these emergency rules are no longer necessary.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-51-900, 16-51-905, 16-51-910, 16-51-915, 16-51-920, 16-51-925, 16-51-930, 16-51-935, and 16-51-940.

Statutory Authority for Adoption: RCW 16.36.040.

Other Authority: Chapter 34.05 RCW.

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

Reasons for this Finding: HPAI has recently been found in domestic poultry within Washington state. HPAI is an extremely infectious and fatal form of avian influenza that affects many species of birds and is of particular concern with [when] it affects poultry. Containment and eradication of HPAI is necessary to protect Washington's poultry.

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 9.

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: February 10, 2015.

Don R. Hover
Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-51-900	Definitions and acronyms
WAC 16-51-905	Necessity of establishing a quarantine zone for notifiable avian influenza (NAI)—Purpose
WAC 16-51-910	Zone under quarantine for NAI
WAC 16-51-915	Prohibition on moving poultry, eggs, and poultry products, and specified farm products within or from the quarantine zone established for NAI.
WAC 16-51-920	Restrictions on vehicles, poultry equipment, wood crates and poultry products leaving from any premises in the quarantine zone established for NAI.
WAC 16-51-925	Testing of live poultry within the quarantine zone.
WAC 16-51-930	Destruction of birds testing positive or exposed to birds testing positive for NAI.
WAC 16-51-935	Disposal of dead poultry originating within the quarantine zone.
WAC 16-51-940	Special permits—Quarantine zone.

WSR 15-05-033

EMERGENCY RULES

**DEPARTMENT OF
FISH AND WILDLIFE**

[Order 15-26—Filed February 10, 2015, 4:47 p.m., effective February 10, 2015, 4:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04500C; and amending WAC 220-52-045.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 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: Provisions in state/tribal management agreements will be achieved by the opening dates contained herein. The special management areas are listed in accordance with state/tribal management agreements. There is insufficient time to adopt 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: February 10, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-04500D Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions of WAC 220-52-045, effective immediately until further notice, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided for in this section.

(1) The area from and the U.S./Canada border to the WA/OR border (46°15.00) and Willapa Bay is open.

(2) For the purposes of this section, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

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

(a) Northeast Corner (Raft River): 47°28.00 N. Lat. 124°20.70 W. Lon.

(b) Northwest Corner: 47°28.00 N. Lat. 124°34.00 W. Lon.

(c) Southwest Corner: 47°08.00 N. Lat. 124°25.50 W. Lon.

(d) Southeast Corner (Copalis River): 47°08.00 N. Lat. 124°11.20 W. Lon.

(4) The Quileute special management area (SMA) is closed to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

(a) Northeast Corner (Cape Johnson): 47°58.00' N. Lat. 124°40.40' W. Lon.

(b) Northwest Corner: 47°58.00' N. Lat. 124°49.00' W. Lon.

(c) Southwest Corner: 47°40.50' N. Lat. 124°40.00' W. Lon.

(d) Southeast Corner (Destruction Island): 47°40.50' N. Lat. 124°24.43' W. Lon.

(5) The Makah special management area (SMA) is closed to fishing until 8:00 A.M. February 15, 2015. The SMA includes the waters between 48°02.15 N. Lat. and 48°19.50 N. Lat. east of a line connecting those points and approximating the 25-fathom line according to the following coordinates:

(a) Northeast Corner: Tatoosh Island

(b) Northwest Corner: 48°19.50 N. Lat. 124°50.45 W. Lon.

(c) Southwest Corner: 48°02.15 N. Lat. 124°50.45 W. Lon.

(d) Southeast Corner: 48°02.15 N. Lat. 124°41.00 W. Lon.

(6) It is unlawful for a vessel to use more than 200 pots in the Makah SMA beginning 8:00 A.M. February 15, 2015, until 8:00 A.M. March 17, 2015. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Carol Henry at 360-249-1229;
- E-mail to Carol Henry at Carol.Henry@dfw.wa.gov; or
- Telephone call to Carol Henry at 360-249-1296.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04500C Coastal crab seasons (15-09)

WSR 15-05-034

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed February 10, 2015, 5:57 p.m., effective February 10, 2015, 5:57 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule will modify chapter 51-51 WAC to allow installation of photovoltaic (PV) panels and modules on residential rooftops without the need for an engineering report. Under the current rules, some jurisdictions require very costly engineering reports in order to issue a permit for installation of these systems. This rule would provide more efficient and cost-effective installation of PV systems on residential rooftops. The purpose of this filing is to renew the emergency rule originally filed on June 19, 2014, under WSR 14-14-003. This matter was filed for permanent rule making as of July 28, 2014, under WSR 14-16-042.

Citation of Existing Rules Affected by this Order: Amending WAC 51-51-2300.

Statutory Authority for Adoption: RCW 19.27.031, 19.27.074.

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 current code language serves as a barrier to the growth of the residential PV installation business in Washington state. Currently many jurisdictions require costly engineering reports which delay permit approvals and result in additional fees. Under these circumstances some potential customers choose not to purchase and install the systems; some installers avoid doing business in some parts of the state due to extremely limiting regulations. Relaxing this requirement would provide additional capacity and allow the industry to continue to thrive in Washington state. This filing will renew the emergency rule originally filed under WSR 14-14-003. The matter is currently filed for permanent rule making under WSR 14-16-042.

The state building code council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

The council adopted the 2012 edition of the International Residential Code (IRC) effective July 1, 2013, with certain amendments. This code regulates the construction methods of single-family and two-family (duplex) homes and townhouses. At the time of adoption, no amendments were made to Section M2302 – Photovoltaic Solar Energy Systems. It has now come to the attention of the council that this code section should be amended due to the potential for extremely negative economic impacts on the solar PV industry throughout Washington state.

In terms of permit requirements, some local jurisdictions choose to exempt certain rooftop PV systems from building permit requirements, and/or may require only a simple over-the-counter permit. Other jurisdictions require full engineering reports and stamped drawings for all rooftop PV systems; this may add long wait times for project completion - up to eight weeks - and result in significant expenses for the homeowner, estimated at an additional \$500 to \$2,500 for engineering-related expenses alone. As a result, some homeowners choose not to install the systems at all, given these additional expenses and long wait times for completion.

The industry provides an increasing number of jobs in construction, installation, and manufacturing every year. However, under the conditions cited above, some companies avoid doing business in areas of the state where the permit requirements serve as an impediment to business efficiency, even though there are potential projects available in those areas.

This emergency was brought to the attention of the council from the WSU energy program, in collaboration with the solar industry and a group of local code officials to address the need for a code amendment, to be adopted as soon as possible. The proposed emergency rule is estimated to result in a ten to thirty percent increase in annual sales for the majority of solar installers. In some cases, the increase is likely to be

twice that large, as solar contractors in eastern Washington would increase marketing efforts in areas they currently avoid.

The proposed emergency rule would provide exceptions to the roof covering specifications in Section M2302, such that the installation could be shown to meet certain standard requirements. These would include information on rating and listing of test standards for wind speed, maximum snow load specifications, specific dead load limits per square foot, requirements on the specific height of the installation above the roof, and the method of distribution of the dead load so that no excessive weight rests on any area of the roof. By allowing for these exceptions, no engineering reports would be required, and local jurisdictions would not need to require permits for most standard installations. This would result in increased business throughout the state and allow the solar PV industry to continue to thrive and grow.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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: June 13, 2014.

C. Ray Allshouse
Chair

NEW SECTION

WAC 51-51-2300 Section M2302—Photovoltaic solar energy systems.

M2302.2 Requirements. The installation, inspection, maintenance, repair and replacement of photovoltaic systems and all system components shall comply with the manufacturer's instructions, sections M2302.2.1 through M2302.2.3, NFPA 70, and the IFC as amended by Washington state.

M2302.2.1 Roof-mounted panels and modules. Where photovoltaic panels and modules are installed on roofs, the roof shall be constructed to support the loads imposed by such modules.

EXCEPTION: The roof structure shall be deemed adequate to support the load of the rooftop solar photovoltaic system if all of the following requirements are met:

1. The solar photovoltaic panel system shall be designed for the wind speed of the local area, and shall be installed per the manufacturer's specifications.
2. The ground snow load does not exceed 70 pounds per square foot.

3. The total dead load of modules, supports, mountings, raceways, and all other appurtenances weigh no more than four pounds per square foot.
4. Photovoltaic modules are not mounted higher than 18 inches above the surface of the roofing to which they are affixed.
5. Supports for solar modules are to be installed to spread the dead load across as many roof-framing members as needed, so that no point load exceeds 50 pounds.

Roof-mounted photovoltaic panels and modules that serve as roof covering shall conform to the requirements for roof coverings in Chapter 9. Where mounted on or above the roof coverings, the photovoltaic panels and modules and supporting structure shall be constructed of noncombustible materials or fire-retardant treated wood equivalent to that required for the roof construction.

WSR 15-05-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 15-27—Filed February 11, 2015, 11:54 a.m., effective February 16, 2015]

Effective Date of Rule: February 16, 2015.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100L and 232-28-62100M; and amending WAC 232-28-621.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 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: Catches have exceeded preseason expectations. This regulation closes salmon fishing in Area 7 to ensure compliance with conservation objectives and agreed-to management plans. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: February 11, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 232-28-62100M Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 232-28-621, effective February 16 through April 30, 2015, waters of Marine Area 7 are closed to salmon fishing.

REPEALER

The following section of the Washington Administrative Code is repealed effective February 16, 2015:

WAC 232-28-62100L Puget Sound salmon—Saltwater seasons and daily limits. (15-14)

The following section of the Washington Administrative Code is repealed effective May 1, 2015:

WAC 232-28-62100M Puget Sound salmon—Saltwater seasons and daily limits.

WSR 15-05-038
EMERGENCY RULES
LIQUOR CONTROL BOARD

[Filed February 11, 2015, 1:31 p.m., effective February 11, 2015, 1:31 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Emergency rules are needed to provide additional clarity to the marijuana rules regarding marijuana-infused products, specifically products that are appealing to children. The mission of the board is to keep alcohol, tobacco, and marijuana out of the hands of youth. Many marijuana-infused products on the medical marijuana market today are appealing to children. Products such as lollipops, gummy bears, and cotton candy are very appealing to children too young to read a label. Confusion exists in the recreational marijuana market on what is considered the "selling price," "paraphernalia," "consultants," and "intermediate products." Emergency rules are needed to define these areas. Marijuana licensees also need clarification on prohibited practices between the marijuana license tiers.

Citation of Existing Rules Affected by this Order: Amending WAC 314-55-010 and 314-55-077.

Statutory Authority for Adoption: RCW 69.50.328, 69.50.342, 69.50.345.

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: Immediate adoption of these rules is necessary for the preservation of the public health and safety. Marijuana infused products must not be appealing to children.

Clarity is needed so licenses [licensees] operate their marijuana businesses within the law to ensure public safety.

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 2, Repealed 0.

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

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

Date Adopted: February 11, 2015.

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

(6) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

~~((6))~~ (7) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of

the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

~~((7))~~ (8) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

~~((8))~~ (9) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana concentrate or marijuana-infused product that must be further processed prior to retail sale.

(10) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((9))~~ (11) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

~~((10))~~ (12) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

~~((11))~~ (13) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

~~((12))~~ (14) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((13))~~ (15) "Paraphernalia" means items used for the storage or use of usable marijuana, marijuana concentrates, or marijuana-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for growing, cultivating, and processing marijuana, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

(16) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

~~((14))~~ (17) "Perimeter" means a property line that encloses an area.

~~((15))~~ (18) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not

include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((16))~~ (19) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

~~((17))~~ (20) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((18))~~ (21) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((19))~~ (22) "Recreation center" or "facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable non-profit organization, city, county, state, or federal government.

~~((20))~~ (23) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((21))~~ (24) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

~~((22))~~ (25) "Selling price" has the same meaning as in RCW 82.08.010, except when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. For such purposes, "selling price" means the true value of the product sold as determined or agreed to by the board. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; and

(b) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

(26) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

NEW SECTION

WAC 314-55-017 Conditional sales prohibited. Conditional sales of marijuana products are prohibited.

(1) Marijuana producers and processors are prohibited from requiring the purchase of other products and/or services by another marijuana licensee as a condition of a transaction of marijuana product. Products and services include, but are not limited to, paraphernalia, lighters, promotional items, unreasonable processing and/or packaging charges.

(2) Marijuana retailers are prohibited from requiring a customer to purchase other products and/or services as a condition to purchasing marijuana product. Products and services include, but are not limited to, paraphernalia, lighters, promotional items, memberships, and bags, boxes, or containers.

(3) The selling price of marijuana product must be indicative of the true value when sold without any other products or services.

NEW SECTION

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, etc. (1) No industry member or marijuana retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of marijuana that are made in accordance with usual and common business practice and that are otherwise in compliance with the rules.

(2) No marijuana producer or processor shall advance and no marijuana retailer shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC 314-55-083; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this rule.

(3) "Industry member" means a licensed marijuana producer, marijuana processor, marijuana retailer, their authorized representatives, and any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any industry member.

(4) No industry member or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any marijuana tied in with, or contingent upon, the retailer's purchase of some other marijuana, or any other merchandise, paraphernalia, property, or service.

(5) If the board finds in any instance that any licensee has violated this regulation, then all licensees involved shall be held equally responsible for such violation.

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, dry cure, package, and

label usable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana retailers. A marijuana processor license also allows the licensee to process and package marijuana into intermediate products for sale at wholesale to other marijuana processors.

(2) A marijuana processor is allowed to blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor licensee must obtain approval from the liquor control board for all marijuana-infused edible products, labeling, and packaging prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a photo of the product, label, and package to the liquor control board for approval. If the liquor control board denies a marijuana-infused edible product for sale in marijuana retail outlets, the marijuana processor may request an administrative hearing per chapter 34.05 RCW, Administrative Procedure Act.

(4) Marijuana-infused edible products in solid form must meet the following requirements:

(a) If there is more than one serving in the package, each serving must be packaged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.

(b) The label must prominently display the number of servings in the package.

(c) Marijuana-infused solid edible products must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused solid edibles must prominently display on the label "This product contains marijuana."

(5) Marijuana-infused edible products in liquid form must meet the following requirements:

(a) If there is more than one serving in the package, a measuring device must be included in the package with the product.

(b) The label must prominently display the number of servings in the package and the amount of product per serving.

(c) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused liquid edibles must prominently display on the label, "This product contains marijuana."

(6) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana ~~((to create an infused edible product))~~. Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.

(a) To reduce the risk to public health, ~~((food defined as))~~ potentially hazardous food as defined in WAC ((246-215-0115(88))) 246-215-01115 may not be infused with marijuana. ((These foods are)) Potentially hazardous ((as they)) foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic

microorganisms or the production of toxins. ~~((The board may designate other food items that may not be infused with marijuana.))~~ Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

~~((4))~~ (b) Other food items that may not be infused with marijuana to be sold in a retail store are:

(i) Any food that has to be acidified to make it shelf stable:

(ii) Food items made shelf stable by canning or retorting;

(iii) Fruit or vegetable juices (this does not include shelf stable concentrates);

(iv) Fruit or vegetable butters;

(v) Pumpkin pies, custard pies, or any pies that contain eggs;

(vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(vii) Dried or cured meats.

(c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic;

(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquor products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

(f) The liquor control board may designate other food items that may not be infused with marijuana.

(7) The recipe for any ~~((food infused with marijuana to make an edible product))~~ marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana ~~((producer's))~~ processor's licensed premises and made available for inspection by the ~~((WSLCB or their))~~ liquor control board or its designee.

~~((5))~~ (8) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

~~((6))~~ (9) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

~~((7))~~ (10) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-015(10) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The liquor control board will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A

licensee must allow the liquor control board or its designee to conduct physical visits and inspect the processing facility, recipes, and required records per WAC 314-55-087 without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the board to suspend or revoke a marijuana license.

(11) The board will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the board deems necessary.

~~((8))~~ (12) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~((9))~~ (13) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

~~((10))~~ (14) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer.

WSR 15-05-048

RECISSION OF EMERGENCY RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 12, 2015, 3:55 p.m.]

On Tuesday, February 10, 2015, the state superintendent of public instruction filed an emergency rule, WSR 15-05-031, effective immediately.

I am writing to request that this emergency rule be immediately rescinded due to a filing error. Our intent is to complete the emergency rule section of the CR-103E by completing the "Reasons for this Finding" section of the form.

An emergency rule will be refiled to include the reason for the emergency rule.

February 12, 2015
Randy Dorn
State Superintendent
of Public Instruction

WSR 15-05-057 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 15-28—Filed February 13, 2015, 11:04 a.m., effective February 16, 2015]

Effective Date of Rule: February 16, 2015.

Purpose: Amend commercial fishing rules for sea urchins.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 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 surpluses of green and red sea urchins exist in the sea urchin districts specified to allow for commercial harvest. There is insufficient time to adopt 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: February 13, 2015.

J. W. Unsworth
Director

NEW SECTION

WAC 220-52-07300Q Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective February 16, 2015, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) The following areas are open to green sea urchin harvest seven days-per-week: district 1, district 2, district 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and district 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude.

(2) It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

REPEALER

The following section of the Washington Administrative Code is repealed effective February 16, 2015:

WAC 220-52-07300P Sea urchins. (15-24)

WSR 15-05-087
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 18, 2015, 11:18 a.m., effective February 18, 2015, 11:18 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amended rule provides clarification to state-tribal education compact submission deadlines.

Citation of Existing Rules Affected by this Order: Amending WAC 392-129-150.

Statutory Authority for Adoption: RCW 28A.150.290.

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: WAC 392-129-150 requires an emergency declaration by the governor to excuse five days by the superintendent of public instruction for a school emergency closure. These proposed changes to WAC 392-129-150 will keep the emergency declaration by the governor, and absent an emergency declaration by the governor, allow the superintendent of public instruction to excuse five days for a school emergency closure when the unforeseen natural event, mechanical failure, or action or [in]action by one or more person caused a loss of life or significant injury to a person or persons on a school campus, and the event prevented operation of the school.

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 1, Repealed 0.

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

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

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

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

Date Adopted: February 17, 2015.

Randy Dorn
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 08-13-049, filed 6/12/08, effective 7/13/08)

WAC 392-129-150 School emergency closure—Implementation of superintendent of public instruction's determination of eligibility. (1) If the superintendent of public instruction determines that the school district has provided a conclusive demonstration that one or more unforeseen natural events, mechanical failures, or actions or inactions by one or more persons prevented the school district from operating the school, the school district shall receive its full annual allocation of state moneys. However, the superintendent of public instruction may only excuse the school district for up to two scheduled school days per incident and not for more than three scheduled school days per school year. Provided, the superintendent may excuse more than two scheduled school days per incident or three scheduled school days per year:

(a) When the unforeseen natural event, mechanical failure, or action or inaction by one or more persons caused a loss of life or significant injury to a person or persons on a school campus; or

(b) Where the school is located in a county which was subject to a state of emergency declaration by the governor due to fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption, and the event giving rise to the emergency declaration prevented operation of the school.

(2) If the district did not conclusively demonstrate that it was prevented from operating the school(s), its allocation of state moneys shall be reduced by:

~~((+))~~ (a) Dividing the number of days lost by one hundred eighty;

~~((2))~~ (b) Multiplying the result obtained in subsection (1) of this section by the annual average full-time equivalent enrollment in the school; and

~~((3))~~ (c) Dividing the result obtained in subsection (2) of this section by the annual average full-time equivalent enrollment in the school district.