

WSR 19-03-004
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-02—Filed January 2, 2019, 4:19 p.m., effective January 3, 2019]

Effective Date of Rule: January 3, 2019.

Purpose: Amend commercial sea urchin rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000I; and amending WAC 220-340-750.

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: This emergency rule is needed to close commercial green sea urchin harvest in part of District 2 to prevent overharvest. Harvestable surpluses of sea urchin exist in the districts specified. 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: January 2, 2019.

Kelly Susewind
 Director

NEW SECTION

WAC 220-340-75000J Commercial sea urchin fisheries. Notwithstanding the provisions of WAC 220-340-750, effective January 3, 2019 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 for red sea urchin harvest seven days-per-week: Sea Urchin District 1, District 2, and 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 fish for, take, or possess 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 for green sea urchin harvest seven days-per-week: Sea Urchin District 1, marine fish/shellfish catch areas 21A, 21B, 22A, 22B, 23A in Sea Urchin District 2, Sea Urchin District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude, District 6, and District 7 except all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122 degrees 35 minutes west longitude to 47 degrees 14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122 degrees 41 minutes west longitude to 47 degrees 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island. It is unlawful to fish for, take, or possess green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) The maximum cumulative landings for red sea urchin and green sea urchin for each weekly fishery opening period is 1,500 pounds per species per valid designated sea urchin harvest license. Each fishery week begins Monday and extends through Sunday.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 3, 2019:

WAC 220-340-75000I Commercial sea urchin fisheries.
 (18-337)

WSR 19-03-019
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-03—Filed January 4, 2019, 9:41 a.m., effective January 7, 2019]

Effective Date of Rule: January 7, 2019.

Purpose: Amend recreational fishing rules for the Skykomish, North Fork Stillaguamish, and Wallace rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000E and 220-312-04000F; and amending WAC 220-312-040.

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: This rule is needed to close fishing in portions of the North Fork Stillaguamish, Skykomish, and Wallace rivers. Whitehorse, Wallace River, and Reiter Ponds hatcheries do not currently have enough broodstock on hand to reach early winter steelhead egg take goals. These closures are necessary to ensure hatchery broodstock

goals are met. 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 the Request of a Non-governmental 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: January 3, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000F Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective January 7 through February 15, 2019:

(1) Skykomish River (Snohomish County): from the mouth to the forks: Closed waters.

(2) Stillaguamish River, North Fork (Snohomish County): from the mouth to Swede Heaven Bridge: Closed waters.

(3) Wallace River (Snohomish County): from the mouth to 200 feet upstream of the water intake of the salmon hatchery: Closed waters.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 7, 2019:

WAC 220-312-04000E Puget Sound—Freshwater exceptions to statewide rules.

The following section of the Washington Administrative Code is repealed effective February 16, 2019:

WAC 220-312-04000F Puget Sound—Freshwater exceptions to statewide rules.

WSR 19-03-029

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-04—Filed January 4, 2019, 1:41 p.m., effective January 4, 2019, 1:41 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational sturgeon rules in the Columbia River.

Citation of Rules Affected by this Order: Amending WAC 220-312-060.

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: This rule is needed to close white sturgeon retention in The Dalles Pool. Current harvest rates indicate this measure is necessary in order to stay within the one hundred thirty-five sturgeon harvest quota. This action is consistent with decisions made by the states of Washington and Oregon on January 4, 2019. There is insufficient time to adopt permanent regulations.

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 the Request of a Non-governmental 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 4, 2019.

Joe Stohr
for Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000D Freshwater exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 220-312-060, effective January 7, 2019, until further notice, retention of white sturgeon is prohibited from The Dalles Dam to John Day Dam.

WSR 19-03-030
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-05—Filed January 4, 2019, 4:15 p.m., effective January 8, 2019,
5:30 p.m.]

Effective Date of Rule: January 8, 2019, 5:30 p.m.

Purpose: Amends Puget Sound commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500R; and amending WAC 220-340-455.

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: This rule will close Region 1 for an interim period. It will maintain the current closures of Region 2 East and Region 2 West. It will continue the Puget Sound commercial crab harvest in Region 3-1, 3-2, 3-3 East and 3-3 West. Pot limits in Region 3-2, 3-3 East and 3-3 West will remain at sixty pots per license. In Region 3-1, fishers are still allowed to use their maximum of one hundred pots per license. There is sufficient allocation available in the commercial regions to accommodate the continued opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the 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; and Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 4, 2019.

Nate Pamplin
for Kelly Suswind
Director

NEW SECTION

WAC 220-340-45500S Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455:

(1) Effective at 5:30 p.m. January 8, 2019, until further notice, Crab Management Region 1 is closed. Region 1 includes Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(2) Effective immediately, until further notice, Crab Management Region 2W is closed. Region 2 West includes Marine Fish-Shellfish Catch Reporting Areas 25B, 25D and 26AW.

(3) Effective immediately until further notice, Crab Management Region 2E is closed. Region 2 East includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(4) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 60 pots per license in Crab Management Region 3-2, Region 3-3 East or Region 3-3 West. These regions include Marine Fish-Shellfish Catch Reporting Areas 25A, 25E, 23D, 23C and 29.

(5) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 100 pots per license in Crab Management Region 3-1. This region includes Marine Fish-Shellfish Catch Reporting Area 23A and 23B.

(6) All remaining buoy tags per license must be onboard the designated vessel and available for immediate inspection.

(7) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123°7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

REPEALER

The following section of the Washington Administrative code is repealed effective 5:30 p.m. January 8, 2019:

WAC 220-340-45500R Commercial crab fishery—Seasons and areas—Puget Sound. (18-338)

WSR 19-03-038
EMERGENCY RULES
DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed January 7, 2019, 4:15 p.m., effective January 7, 2019, 4:15 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-887-134 Adding fentanyl derivatives not approved by the Food and Drug Administration (FDA), synthetic cannabinoids, synthetic cathinones, and

synthetic opioids to Schedule I, the pharmacy quality assurance commission (commission) is adopting a new section of rule to add fentanyl derivatives not approved by the FDA, synthetic cannabinoids, synthetic cathinones, and synthetic opioids to Schedule I under the Uniform Controlled Substance Act (CSA) making it illegal to sell, possess, manufacture, or deliver chemicals or products containing these substances. This filing replaces and supersedes the emergency rule filed as WSR 18-16-098, on July 31, 2018, which expired on November 29, 2018. The requirements of this fifth emergency rule are the same as the requirements filed in previous emergency rule.

Citation of Rules Affected by this Order: New WAC 246-887-134.

Statutory Authority for Adoption: RCW 69.50.201 and 69.50.203.

Other Authority: RCW 18.64.005(7).

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: RCW 69.50.201(e) allows the commission to schedule substances that pose an imminent hazard to public safety by emergency rule. The substances added in rule present a clear and imminent danger to the public. Health warnings have been issued by a number of state public health departments and national poison control centers listing adverse health outcomes such as chest pains, anxiety, elevated blood pressure, seizures, extreme paranoia, delusions, hallucinations, and dependency. These effects are similar to the effects of some illegal drugs, such as heroin, cocaine, methamphetamine, and ecstasy. In addition, there have been reports of injuries and deaths linked to activities resulting from use of these substances. The commission intends to adopt permanent rules on the sales, possession, manufacture or delivery of chemicals or products containing fentanyl derivatives. Permanent rule making has been initiated by the commission, WSR 18-22-115, with a hearing held on December 13, 2018. That permanent rule making incorporates the changes this emergency rule addresses, however a fifth emergency rule is needed to continue to have these substances scheduled until the permanent rule adopted by the commission is filed and effective.

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 the Request of a Non-governmental 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 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: January 7, 2019.

Tim Lynch, PharmD, MS, Chair
Pharmacy Quality Assurance Commission

NEW SECTION

WAC 246-887-134 Adding fentanyl derivatives not approved by the Food and Drug Administration (FDA), synthetic cannabinoids, synthetic cathinones, and synthetic opioids to Schedule I. (1) The Washington state pharmacy quality assurance commission finds the following substances have high potential for abuse and have no medical use in treatment in the United States or they lack accepted safety for use in treatment under medical supervision. The commission, therefore, places each of the following substances in Schedule I.

(2) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(a) Fentanyl derivatives not approved by the FDA. Unless specifically excepted or unless listed in another schedule, any of the following fentanyl derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)

(ii) Butyryl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide)

(iii) Beta-Hydroxythiofentanyl (N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, (beta-hydroxythiofentanyl))

(iv) Furanyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)

(b) Synthetic cannabinoids (Spice) and its derivatives. Unless specifically excepted or unless listed in another schedule, any of the following synthetic cannabinoid derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Cannabicyclohexanol, CP-47,497 C8 Homologue (5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol)

(ii) MAB-CHMINACA(N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (also known as ADB-CHMINACA))

(iii) UR-144(1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)

(iv) XLR11([1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone) (also known as 5-fluoro-UR-144)

(v) AKB48(N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide) (also known as APINACA)

(vi) PB-22 (quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate) (also known as QUPIC)

(vii) 5F-PB-22(quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (also known as 5-fluoro-PB-22)

(viii) AB-FUBINACA(N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

(ix) ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)

(x) AB-PINACA (N-[1-Amino-3-methyl-1-oxo-2-butanyl]-1-pentyl-1H-indazole-3-carboxamide)

(xi) AB-CHMINACA (N-[1-Amino-3-methyl-1-oxo-2-butanyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)

(xii) THJ-2201([1-(5-Fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)

(xiii) 5F-ADB (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate) (also known as 5F-MDMB-PINACA)

(xiv) 5F-AMB (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)

(xv) 5F-APINACA (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide) (also known as 5F-AKB48)

(xvi) ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)

(xvii) MDMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (also known as MMB-CHMINACA)

(xviii) MDMB-FUBINACA (methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)

(c) Synthetic cathinones (Bath salts) and its derivatives. Unless specifically excepted or unless listed in another schedule, any of the following synthetic cathinones derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) 4-MEC (4-methyl-N-ethylcathinone)

(ii) 4-MePPP (4-methyl-alpha-pyrrolidinopropiophenone)

(iii) [alpha]-PVP (alpha-pyrrolidinopentiophenone)

(iv) Pentedrone (2-(methylamino)-1-phenylpentan-1-one)

(v) 4-FMC, Flephedrone (4-fluoro-N-methylcathinone)

(vi) 3-FMC (3-fluoro-N-methylcathinone)

(vii) Naphyrone (1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one)

(viii) [alpha]-PBP (alpha-pyrrolidinobutiophenone)

(d) Synthetic opioids and its derivatives. Unless specifically excepted or unless listed in another schedule, any of the following synthetic opioid derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)

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

WSR 19-03-049

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-06—Filed January 9, 2019, 9:25 a.m., effective January 9, 2019, 9:25 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends coastal commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000K and 220-340-45000I; and amending WAC 220-340-420 and 220-340-450.

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: Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The agreed to criteria to include the area north of Destruction Island has been achieved. The stepped opening periods/areas will also provide for fair start provisions. Pot limits will reduce the crowding effect in this restricted area and language improves enforcement of pot limits. A longer gear set period will allow for safer fishing conditions. A delay due to elevated marine toxins aligns with the tri-state crab agreement and similar rules in Oregon and California. 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 the Request of a Non-governmental 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 9, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000L Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420, effective immediately until further notice:

(1) 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, or Washington

coastal or adjacent waters of the Pacific Ocean from any vessel, unless:

(a) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings until February 14, 2019 and;

(b) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel-hold inspection certificates dated January 3, 2019 to January 8, 2019, are only valid for the area south of 46°28.00 N. Lat.

(2) It is unlawful for persons participating in the Columbia River, Coastal, or Willapa Bay commercial Dungeness crab fishery until 8:00 a.m. January 7, 2019 to:

(a) Deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal commercial crab fishery license held by that person is 500.

(b) Deploy or operate more than 250 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness crab fishery license held by that person is 300.

(c) Fail to maintain onboard any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

(3) It is unlawful to possess or deliver Dungeness crab unless the following conditions are met:

(a) Vessels that participated in the coastal Dungeness crab fishery from Klipsan Beach (46°28.00 North Latitude) to Point Arena, CA, including Willapa Bay and the Columbia River, may possess crab for delivery into Washington ports south of 47°00.00 N. Lat., provided the crab were taken south of Klipsan (46°28.00 N. Lat.).

(b) The vessel does not 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 prior to entering this area. Prior to entering the area north of 47°00.00 N. Lat., the vessel operator must call 360-581-3337, and report 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.

(4) It is unlawful for a vessel not designated on a Dungeness crab coastal fishery license to deploy crab pot gear except under the following conditions:

(a) The vessel deploys pot gear only during the 73-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date;

(b) The undesignated vessel carries no more than 250 crab pots at any one time; and;

(c) The primary or alternate operator of the crab pot gear named on the license associated with the gear is on board the undesignated vessel while the gear is being deployed.

(5) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.500 Commercial fishing without a license—Penalty, depending on the circumstances of the violation.

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

NEW SECTION

WAC 220-340-45000J Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provi-

sions of WAC 220-340-450, 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 in this section.

(1) Open area: The area from Klipsan Beach (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay.

(a) For the purposes of this section, the waters of Willapa Bay 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.

(b) It is permissible to set crab gear beginning at 8:00 a.m., January 1, 2019.

(c) It is permissible to pull crab gear beginning at 9:00 a.m., January 4, 2019.

(d) Licenses and vessels designated to those licenses that participate in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California, to Klipsan Beach, Washington (46°28.00), including Willapa Bay, before the area north of Klipsan Beach (46°28.00) opens, are prohibited from fishing in the following areas for the durations specified:

i. The waters between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 a.m. January 20, 2019; and

ii. The waters between Oysterville (46°33.00) and the U.S./Canada border until 8:00 a.m. February 14, 2019.

(2) Open area: The area from Klipsan Beach (46°28.00) to Destruction Island (47°40.50) and Grays Harbor.

(a) It is permissible to set crab gear beginning at 8:00 a.m., January 7, 2019.

(b) It is permissible to pull crab gear beginning at 9:00 a.m., January 10, 2019.

(3) Open area: The area from Destruction Island (46°28.00) to the US/Canada Border

(a) It is permissible to set crab gear beginning at 8:00 a.m., January 12, 2019.

(b) It is permissible to pull crab gear beginning at 9:00 a.m., January 15, 2019.

(4) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area where the season opening is delayed due to marine biotoxins for the first 30 days following the opening of the area if the vessel was employed in the coastal crab fishery during the previous 45 days.

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

(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.

(6) 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.

(7) The Makah special management area (SMA) is closed to fishing until further notice. 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.

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-340-42000K Commercial crab fishery—Unlawful acts. (18-340)
- WAC 220-340-45000I Commercial crab fishery—Seasons and areas—Coastal. (18-340)

WSR 19-03-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-07—Filed January 11, 2019, 1:26 p.m., effective January 17, 2019, 12:01 p.m.]

Effective Date of Rule: January 17, 2019, 12:01 p.m.

Purpose: Amends recreational razor clam rules.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000W; and amending WAC 220-330-160.

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: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 3, 4, 5 and 6 for recreational harvest. Washington department of health has certified clams from this beach to be

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 the Request of a Non-governmental 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, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000W Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. January 17, 2019 through 11:59 p.m. January 21, 2019, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. January 20, 2019 through 11:59 p.m. January 20, 2019 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. only.

(3) Effective 12:01 p.m. January 19, 2019 through 11:59 p.m. January 19, 2019 and 12:01 p.m. January 21, 2019 through 11:59 p.m. January 21, 2019, 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.

(4) Effective 12:01 p.m. January 19, 2019 through 11:59 p.m. January 21, 2019, razor clam digging is permissible in Razor Clam Area 6. 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 the Twin Harbors and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 22, 2019:

WAC 220-330-16000W Razor clams—Areas and seasons.

WSR 19-03-092
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-08—Filed January 14, 2019, 4:11 p.m., effective January 14, 2019, 4:11 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules for the Skykomish and Wallace rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000G and 220-312-04000F; and amending WAC 220-312-040.

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: This rule is needed to reopen fishing in portions of the Skykomish and Wallace rivers. Whitehorse hatchery on the North Fork Stillaguamish does not currently have enough broodstock on hand to reach early winter steelhead egg take goals and will remain closed. Wallace River and Reiter Ponds hatcheries have collected enough early winter steelhead broodstock to meet egg take goals. 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 the Request of a Non-governmental 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: January 14, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000G Freshwater exceptions to statewide rules—Puget Sound. Notwithstanding the provisions of WAC 220-312-040, effective immediately through February 15, 2019:

(1) Stillaguamish River, North Fork (Snohomish County): from the mouth to Swede Heaven Bridge: Closed waters.

(2) Wallace River (Snohomish Co.) from 200 feet downstream to 200 feet upstream of the water intake of the salmon hatchery:

(a) It is unlawful to fish from any floating device.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Cutthroat trout and wild rainbow trout: minimum length 14 inches.

(ii) Dolly varden/bull trout: minimum length 20 inches as part of the trout limit.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-312-04000F Puget Sound—Freshwater exceptions to statewide rules.

The following section of the Washington Administrative Code is repealed effective February 16, 2019:

WAC 220-312-04000G Puget Sound—Freshwater exceptions to statewide rules.

WSR 19-03-099
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 15, 2019, 11:37 a.m., effective January 15, 2019, 11:37 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is creating WAC 388-412-0001 Early issuance of February 2019 food assistance benefits. This change will allow the department to issue February 2019 food assistance benefits on or before January 20, 2019, at the direction of the federal USDA Food and Nutrition Service.

Citation of Rules Affected by this Order: New WAC 388-412-0001.

Statutory Authority for Adoption: RCW 43.88.070, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

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: Implementation of the above-referenced rule is necessary to preserve the maximum amount of funds available for food assistance in light of the

partial federal government shutdown. Implementation is also necessary based on the directive received, January 8, 2019, from the USDA Food and Nutrition Service to issue February 2019 food assistance benefits on or before January 20, 2019.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 15, 2019.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-412-0001 Early issuance of February 2019 food assistance benefits. (1) If you are eligible to receive food assistance benefits during January 2019 and February 2019, we may issue your February 2019 food assistance allotment on or before January 20, 2019. This applies to the following programs:

(a) Washington basic food program under WAC 388-400-0040;

(b) State-funded food assistance program under WAC 388-400-0050;

(c) Transitional food assistance under chapter 388-489 WAC; or

(d) Washington combined application project under chapter 388-492 WAC.

(2) This rule takes effect immediately upon filing.

**WSR 19-03-103
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-09—Filed January 16, 2019, 8:52 a.m., effective January 16, 2019, 8:52 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational fishing rules for Grande Ronde, Snake, Touchet, Tucannon, and Walla Walla rivers.

Citation of Rules Affected by this Order: Amending WAC 220-312-050.

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: This emergency rule is necessary [to] reduce the steelhead daily limit for the Grande Ronde, Snake, Touchet, Tucannon, and Walla Walla rivers. The 2018 Columbia River forecasted return for upriver steelhead was one hundred ninety thousand three hundred fifty. The U.S. v. Oregon Technical Advisory Committee (TAC) met on August 26 to review the A/B-Index steelhead passage at Bonneville Dam. TAC downgraded the total expected A/B-Index steelhead run size at Bonneville to ninety-six thousand five hundred. The run was adjusted again on September 25 to a total of ninety-two thousand eight hundred A/B-Index steelhead with sixty-nine thousand five hundred clipped and twenty-eight thousand three hundred unclipped fish. With continued concerns between comanagers for A run steelhead and impacts to wild fish it is important to reduce limits to protect steelhead within these systems. 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 the Request of a Non-governmental 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 15, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-0500Z Freshwater exceptions to statewide rules—Eastside. Notwithstanding the provisions of WAC 220-312-050, effective immediately through April 15, 2019:

(1) **Grande Ronde River (Asotin County):** from the mouth to the Washington/Oregon boundary: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

(2) **Snake River (Franklin/Walla Wall Counties):** effective immediately through March 31, 2019: from the Burbank-to-Pasco railroad bridge at river mile 1.25 upstream to the Oregon State line: Steelhead: daily limit 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

(3) **Touchet River (Walla Walla County):** from mouth to the confluence of North and South Forks: Steelhead daily

limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

(4) **Tucannon River (Columbia/Garfield Counties):** from mouth to the Tucannon Hatchery Road Bridge: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

(5) **Walla Walla River (Walla Walla County):** from mouth to the Washington/Oregon border: Steelhead daily limit is 1 hatchery steelhead, anglers must stop fishing for steelhead once their daily limit has been retained.

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

**WSR 19-03-106
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-10—Filed January 16, 2019, 10:51 a.m., effective January 16, 2019, 10:51 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This proposal will change the hunt dates for two antlerless hunts that are in the 65 and older category. The hunt name is Centralia Mine for both hunts. The dates for the first hunt will change from Jan. 5-6, 2019, to Feb. 2-3, 2019, and dates for the second hunt will change from Jan. 12-13, 2019, to Feb. 9-10, 2019.

Citation of Rules Affected by this Order: Amending WAC 220-415-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.150, 77.12.210, 77.12.240, 77.32.007, 77.32.050, 77.32.070, 77.32.090, and 77.32.370.

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

Reasons for this Finding: These two hunts are administered on properties associated with the Centralia Mine, which is owned by Trans Alta and is an active surface coal mine. Consequently, licensed hunters are required to be accompanied by a Centralia Mine employee at all times. A fatal work-related accident occurred recently on Centralia Mine, which resulted in a complete shutdown of the facility while the investigation was being completed. As a result, these hunts could not occur as originally scheduled. The investigation is

complete and the mine has reopened. The department has coordinated with Centralia Mine to identify alternative dates in February when these hunts can occur.

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 the Request of a Non-governmental 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: January 16, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-415-06000A 2018 Elk special permits. Notwithstanding the provisions of WAC 220-415-060, effective immediately, until further notice, the change shall read as follows:

It is unlawful to fail to comply with the bag, possession, and season limits described below. A violation of this section is punishable under RCW 77.15.410 Unlawful hunting of big game—Penalty.

Special Elk Permit Hunting Seasons (Open to Permit Holders Only)

Hunters must purchase an elk hunting license prior to purchasing a permit application. Hunters may only apply for permits consistent with the tag required for the hunt choice; however, Multiple Season Permit holders may apply for Eastern or Western Washington archery, muzzleloader, or modern firearm permit hunts. Applicants must have purchased the proper tag for these hunts. The elk tag prefixes required to apply for each hunt are shown in the following table. Hunters drawn for a special permit hunt must comply with weapon restrictions, dates, and other conditions listed for the hunt. Hunters drawn for a special permit designated "**Any tag**" under the "**Weapon/Tag**" restriction must use equipment consistent with the requirements of their transport tag and license.

65+ Senior - Only hunters 65 and older may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Northeast	EF	65+	Oct. 27 - Nov. 4 and Dec. 16-31	Antlerless	GMUs 113, 117	10
Prescott	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 149	3
Blue Creek	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 154	3
Dayton	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMUs 162, 163	3
Peola	EF	65+	Oct. 27 - Nov. 4	Antlerless	GMU 178	3

65+ Senior - Only hunters 65 and older may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Malaga	EF	65+	Nov. 5-15	Antlerless	Elk Area 2032	10
Colockum	EF	65+	Oct. 31 - Nov. 12	Antlerless	GMUs 328, 329, 335	10
Yakima North	EF	65+	Oct. 31 - Nov. 12	Antlerless	GMUs 336, 340, 342, 346	10
Yakima Central	EF	65+	Oct. 31 - Nov. 12	Antlerless	GMUs 352, 356, 360	5
Yakima South	EF	65+	Oct. 31 - Nov. 12	Antlerless	GMUs 364, 368	5
Alkali	EF	65+	Oct. 15 - Nov. 2	Antlerless	GMU 371	10
North Bend	WF, WM, WA	65+	Nov. 3-14	Antlerless	Elk Area 4601	5
Colockum	EM	65+	Sept. 29 - Oct. 7	Antlerless	GMUs 328, 329, 335	5
Yakima North	EM	65+	Sept. 29 - Oct. 7	Antlerless	GMUs 336, 340, 342, 346	5
Yakima Central	EM	65+	Sept. 29 - Oct. 7	Antlerless	GMUs 352, 356, 360	5
Ryderwood	WF	65+	Nov. 3-14	Antlerless	GMU 530	15
Skagit River	WF, WM, WA	65+	Nov. 11-26 and Dec. 17-31	Antlerless	Elk Area 4941	4
Peninsula	WF	65+	Nov. 3-14	Antlerless	GMUs 602, 607, 612, 615	3
Centralia Mine	WF	65+	Jan 5-6, 2019 <u>Feb. 2-3, 2019</u>	Antlerless	Elk Area 6011	5
Centralia Mine	WF	65+	Jan. 12-13, 2019 <u>Feb. 9-10, 2019</u>	Antlerless	Elk Area 6011	5
Hanaford	WF, WM, WA	65+	Dec. 29, 2018 - Jan. 12, 2019	Antlerless	Elk Area 6069	5
Hanaford	WF, WM, WA	65+	Jan. 13-28, 2019	Antlerless	Elk Area 6069	5
Peninsula	WA	65+	Sept. 8-20	Antlerless	GMUs 602, 607, 612, 615	1
Peninsula	WM	65+	Oct. 6-12	Antlerless	GMUs 602, 607, 612, 615	1
Forks	WF, WM, WA	65+	Dec. 16-31	Antlerless	Elk Area 6612	10

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

**WSR 19-03-111
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-11—Filed January 16, 2019, 1:29 p.m., effective January 16, 2019, 1:29 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational harvest rules for razor clams.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000W and 220-330-16000X; and amending WAC 220-330-160.

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: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be safe for human consumption. Area 6 is not included due to current United States federal government shutdown and Olympic National Park staff no longer available [available] to

ensure a safe and orderly opening in that area. Razor clam beaches are closed by permanent rules unless opened by an emergency rule. 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 the Request of a Non-governmental 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: January 16, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000X Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160,

it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. January 17, 2019 through 11:59 p.m. January 21, 2019, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. January 20, 2019 through 11:59 p.m. January 20, 2019 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. only.

(3) Effective 12:01 p.m. January 19, 2019 through 11:59 p.m. January 19, 2019 and 12:01 p.m. January 21, 2019 through 11:59 p.m. January 21, 2019, 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.

(4) It is unlawful to dig for razor clams at any time in the Twin Harbors and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-330-16000W Razor clams—Areas and seasons.
(19-07)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 22, 2019:

WAC 220-330-16000X Razor clams—Areas and seasons.
(19-11)

WSR 19-03-112
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 19-12—Filed January 16, 2019, 1:40 p.m., effective January 16, 2019, 1:40 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial sea urchin harvest rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000J; and amending WAC 220-340-750.

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: This emergency rule is needed to close commercial green sea urchin harvest in District 1, and red sea urchin in District 3, to prevent overharvest as quota has been reached. Harvestable surpluses of sea urchin exist in the districts specified. 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 the Request of a Non-governmental 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 16, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000K Commercial sea urchin fisheries. Notwithstanding the provisions of WAC 220-340-750, 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 areas are open for red sea urchin harvest seven days-per-week: Sea Urchin District 1, District 2, 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 fish for, take, or possess 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 for green sea urchin harvest seven days-per-week: Sea Urchin District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude, District 6, and District 7 except all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122 degrees 35 minutes west longitude to 47 degrees 14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122 degrees 41 minutes west longitude to 47 degrees 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island. It is unlawful to fish for, take, or possess green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) The maximum cumulative landings for red sea urchin and green sea urchin for each weekly fishery opening period is 1,500 pounds per species per valid designated sea urchin harvest license. Each fishery week begins Monday and extends through Sunday.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-340-75000J Commercial sea urchin fisheries.
(19-02)

**WSR 19-03-123
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed January 17, 2019, 2:53 p.m., effective January 17, 2019, 2:53 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is amending WAC 388-845-1410 Are there limits to the prevocational services you may receive?, to eliminate prevocational services by March 1, 2019.

Citation of Rules Affected by this Order: Amending WAC 388-845-1410.

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

Other Authority: 42 C.F.R. Section 441.301 (c)(4).

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: Prevocational services do not meet federal integration requirements under 42 C.F.R. Section 441.301 (c)(4) for home and community-based services (HCBS) settings. In response, the department's HCBS state-wide transition plan, as approved by the Centers for Medicare and Medicaid Services (CMS), ended enrollment in prevocational services by September 1, 2015. Additionally, the approved plan aimed to transition all remaining prevocational clients to other services within four years. The developmental disabilities administration (DDA) must enact this mass change on an emergency basis to comply with the CMS-approved waiver amendments that eliminate prevocational services on the basic plus and core waivers by March 1, 2019. If this amendment is not enacted on an emergency basis, the department risks losing federal funding. Enacting this amendment on an emergency basis also enables DDA to send timely due-process notices with an appropriate WAC citation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, 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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: January 16, 2018 [2019].

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-1410 Are there limits to the prevocational services you may receive? The following limits apply to your receipt of prevocational services:

(1) Effective September 1, 2015, no new referrals are accepted for prevocational services.

(2) Effective March 1, 2019, prevocational services are no longer available.

(3) Clinical and support needs for prevocational services are limited to those identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan/individual support plan.

~~((3))~~ (4) You must be age twenty and graduating from high school before your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((4))~~ (5) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals; and

(c) Recommendation by your individual support plan team.

~~((5))~~ (6) You will not be authorized to receive prevocational services in addition to community access services or supported employment services.

~~((6))~~ (7) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.

**WSR 19-03-125
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 19-13—Filed January 17, 2019, 4:28 p.m., effective January 20, 2019]

Effective Date of Rule: January 20, 2019.

Purpose: Amend recreational salmon rules in Puget Sound.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000V; and amending WAC 220-313-060.

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: This emergency rule is needed to close recreational salmon angling in Catch Record Card Area 10. Preliminary estimates and fishery projections indicate the total encounters guideline is expected to be reached by the end of the day Saturday, January 19. This closure is necessary to avoid exceeding the allowable limit of total encounters including both retained and released fish. The fishery is being closed to control impacts on stocks of concern and ensure compliance with conservation objectives. 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 the Request of a Non-governmental 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, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-313-06000W Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 220-313-060, the following rules apply effective January 20 through March 31, 2019:

Catch Record Card Area 10 except Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier: Closed to fishing for or retaining salmon.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 20, 2019:

WAC 220-313-06000V Puget Sound salmon—Saltwater seasons and daily limits. (18-336)

WSR 19-03-128 EMERGENCY RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed January 18, 2019, 11:31 a.m., effective January 24, 2019]

Effective Date of Rule: January 24, 2019.

Purpose: The department is enacting amendments to WAC 388-845-1615 on an emergency basis to require home-care agencies to be contracted with area agencies on aging. These amendments align with waiver amendments approved by the Centers for Medicare and Medicaid Services.

Citation of Rules Affected by this Order: Amending WAC 388-845-1615.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441.302.

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: Immediate adoption of these amendments ensures that the developmental disabilities administration (DDA) only contracts with qualified home-care agency providers and thus properly receives federal funds. This is the second emergency rule filing on this subject. DDA is following the permanent rule-making process to enact this rule on a permanent basis; the rule is scheduled for public hearing on January 8, 2019. This second filing is necessary to keep the rule in effect until after the hearing when DDA files the permanent CR-103 rule-making order.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: January 8, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1615 Who may be qualified providers of respite care? Providers of respite care may be any of the following individuals or agencies contracted with the developmental disabilities administration (DDA) for respite care:

(1) Individuals who meet the provider qualifications under chapter 388-825 WAC;

(2) (~~(Homecare and)~~) Home health agencies licensed under chapter 246-335 WAC, Part 1;

(3) Homecare agencies licensed under chapter 246-335 WAC, Part 1 and contracted with the area agencies on aging (AAA);

(4) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;

~~((4))~~ (5) Licensed and contracted adult family homes;

~~((5))~~ (6) Licensed and contracted adult residential care facilities;

~~((6))~~ (7) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;

~~((7))~~ (8) Licensed child care centers under chapter 170-295 WAC;

~~((8))~~ (9) Licensed child day care centers under chapter 170-295 WAC;

~~((9))~~ (10) Adult day care providers under chapter 388-71 WAC contracted with DDA;

~~((10))~~ (11) Certified providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services;

~~((11))~~ (12) A licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the standards of nursing conduct or practice under chapter 246-700 WAC and contracted with DDA to provide this service; or

~~((12))~~ (13) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.

WSR 19-03-136

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed January 21, 2019, 6:47 p.m., effective January 21, 2019, 6:47 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The Washington state legislature provided funding to increase the medication assisted treatment (MAT) rate for opioid use disorder to match the medicare rate in order to encourage more providers to treat patients with opioid use disorder. This represents an exception to current payment methodology and needs to be described in the administrative code.

Citation of Rules Affected by this Order: New WAC 182-531-2040; and amending WAC 182-531-0050.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, ESSB 6032 - 2017-2019 Omnibus operating budget - 2018 Supplemental.

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

Reasons for this Finding: This emergency filing is required to comply with ESSB 6032, as described in purpose. The current emergency filed under WSR 18-20-041, on September 25, 2018, is set to expire. This filing allows the agency to complete the permanent rule-making process. Since the initial emergency filing, the agency completed an

agency-wide review and sent the draft for external stakeholder review.

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 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 1, Amended 1, Repealed 0.

Date Adopted: January 21, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-21-040, filed 10/12/17, effective 11/12/17)

WAC 182-531-0050 Physician-related services definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC, apply to this chapter.

"Acquisition cost" - The cost of an item excluding shipping, handling, and any applicable taxes.

"Acute care" - Care provided for clients who are not medically stable. These clients require frequent monitoring by a health care professional in order to maintain their health status. See also WAC 246-335-015.

"Acute physical medicine and rehabilitation (PM&R)" - A comprehensive inpatient and rehabilitative program coordinated by a multidisciplinary team at an agency-approved rehabilitation facility. The program provides twenty-four hour specialized nursing services and an intense level of specialized therapy (speech, physical, and occupational) for a diagnostic category for which the client shows significant potential for functional improvement (see WAC 182-550-2501).

"Add-on procedure(s)" - Secondary procedure(s) that are performed in addition to another procedure.

"Admitting diagnosis" - The medical condition responsible for a hospital admission, as defined by the ICD diagnostic code.

"Advanced registered nurse practitioner (ARNP)" - A registered nurse prepared in a formal educational program to assume an expanded health services provider role in accordance with WAC 246-840-300 and 246-840-305.

"Allowed charges" - The maximum amount reimbursed for any procedure that is allowed by the agency.

"Anesthesia technical advisory group (ATAG)" - An advisory group representing anesthesiologists who are affected by the implementation of the anesthesiology fee schedule.

"Bariatric surgery" - Any surgical procedure, whether open or by laparoscope, which reduces the size of the stom-

ach with or without bypassing a portion of the small intestine and whose primary purpose is the reduction of body weight in an obese individual.

"Base anesthesia units (BAU)" - A number of anesthesia units assigned to a surgical procedure that includes the usual preoperative, intraoperative, and postoperative visits. This includes the administration of fluids and/or blood incident to the anesthesia care, and interpretation of noninvasive monitoring by the anesthesiologist.

"Bundled services" - Services integral to the major procedure that are included in the fee for the major procedure. Bundled services are not reimbursed separately.

"Bundled supplies" - Supplies that are considered to be included in the practice expense RVU of the medical or surgical service of which they are an integral part.

"By report (BR)," see WAC 182-500-0015.

"Call" - A face-to-face encounter between the client and the provider resulting in the provision of services to the client.

"Cast material maximum allowable fee" - A reimbursement amount based on the average cost among suppliers for one roll of cast material.

"Center of excellence (COE)" - A hospital, medical center, or other health care provider that meets or exceeds standards set by the agency for specific treatments or specialty care.

"Centers for Medicare and Medicaid Services (CMS)," see WAC 182-500-0020.

"Certified registered nurse anesthetist (CRNA)" - An advanced registered nurse practitioner (ARNP) with formal training in anesthesia who meets all state and national criteria for certification. The American Association of Nurse Anesthetists specifies the national certification and scope of practice.

"Children's health insurance plan (CHIP)," see chapter 182-542 WAC.

"Clinical Laboratory Improvement Amendment (CLIA)" - Regulations from the U.S. Department of Health and Human Services that require all laboratory testing sites to have either a CLIA registration or a CLIA certificate of waiver in order to legally perform testing anywhere in the U.S.

"Conversion factors" - Dollar amounts the agency uses to calculate the maximum allowable fee for physician-related services.

"Covered service" - A service that is within the scope of the eligible client's medical care program, subject to the limitations in this chapter and other published WAC.

"CPT," see "current procedural terminology."

"Critical care services" - Physician services for the care of critically ill or injured clients. A critical illness or injury acutely impairs one or more vital organ systems such that the client's survival is jeopardized. Critical care is given in a critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility.

"Current procedural terminology (CPT)" - A systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide

physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Emergency medical condition(s)," see WAC 182-500-0030.

"Emergency services" - Medical services required by and provided to a patient experiencing an emergency medical condition.

"Evaluation and management (E&M) codes" - Procedure codes that categorize physician services by type of service, place of service, and patient status.

"Expedited prior authorization" - The process of obtaining authorization that must be used for selected services, in which providers use a set of numeric codes to indicate to the agency which acceptable indications, conditions, diagnoses, and/or criteria are applicable to a particular request for services.

"Experimental" - A term to describe a health care service that lacks sufficient scientific evidence of safety and effectiveness. A service is not "experimental" if the service:

((+)) (a) Is generally accepted by the medical profession as effective and appropriate; and

((+)) (b) Has been approved by the federal Food and Drug Administration or other requisite government body, if such approval is required.

"Federally approved hemophilia treatment center" - A hemophilia treatment center (HTC) that:

((+)) (a) Receives funding from the U.S. Department of Health and Human Services, Maternal and Child Health Bureau National Hemophilia Program;

((+)) (b) Is qualified to participate in 340B discount purchasing as an HTC;

((+)) (c) Has a U.S. Center for Disease Control (CDC) and prevention surveillance site identification number and is listed in the HTC directory on the CDC web site;

((+)) (d) Is recognized by the Federal Regional Hemophilia Network that includes Washington state; and

((+)) (e) Is a direct care provider offering comprehensive hemophilia care consistent with treatment recommendations set by the Medical and Scientific Advisory Council (MASAC) of the National Hemophilia Foundation in their standards and criteria for the care of persons with congenital bleeding disorders.

"Fee-for-service," see WAC 182-500-0035.

"Flat fee" - The maximum allowable fee established by the agency for a service or item that does not have a relative value unit (RVU) or has an RVU that is not appropriate.

"Geographic practice cost index (GPCI)" - As defined by Medicare, means a Medicare adjustment factor that includes local geographic area estimates of how hard the provider has to work (work effort), what the practice expenses are, and what malpractice costs are. The GPCI reflects one-fourth the difference between the area average and the national average.

"Global surgery reimbursement," see WAC 182-531-1700.

"HCPCS Level II" - Health care common procedure coding system, a coding system established by Centers for Medicare and Medicaid Services (CMS) to define services and procedures not included in CPT.

"Health care financing administration common procedure coding system (HCPCS)" - The name used for the Centers for Medicare and Medicaid Services (formerly known as the Health Care Financing Administration) codes made up of CPT and HCPCS level II codes.

"Health care team" - A group of health care providers involved in the care of a client.

"Hospice" - A medically directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington licensed and certified Washington state hospice for terminally ill clients and the clients' families.

"ICD," see "International Classification of Diseases."

"Informed consent" - That an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

~~((+))~~ (a) Disclosed and discussed the client's diagnosis;

~~(2))~~

(b) Offered the client an opportunity to ask questions about the procedure and to request information in writing;

~~(3))~~

(c) Given the client a copy of the consent form; ~~((and~~

~~(4))~~

(d) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. Chapter IV 441.257; and

~~((5))~~ (e) Given the client oral information about all of the following:

~~((+))~~ (i) The client's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure; ~~((and~~

~~(b))~~

(ii) Alternatives to the procedure including potential risks, benefits, and consequences; and

~~((+))~~ (iii) The procedure itself, including potential risks, benefits, and consequences.

"Inpatient hospital admission" - An admission to a hospital that is limited to medically necessary care based on an evaluation of the client using objective clinical indicators, assessment, monitoring, and therapeutic service required to best manage the client's illness or injury, and that is documented in the client's medical record.

"International Classification of Diseases (ICD)" - The systematic listing that transforms verbal descriptions of diseases, injuries, conditions, and procedures into numerical or alphanumerical designations (coding).

"Investigational" - A term to describe a health care service that lacks sufficient scientific evidence of safety and effectiveness for a particular condition. A service is not "investigational" if the service:

~~((+))~~ (a) Is generally accepted by the medical professional as effective and appropriate for the condition in question; or

~~((2))~~ (b) Is supported by an overall balance of objective scientific evidence, that examines the potential risks and potential benefits and demonstrates the proposed service to be of greater overall benefit to the client in the particular circumstance than another generally available service.

"Life support" - Mechanical systems, such as ventilators or heart-lung respirators, which are used to supplement or take the place of the normal autonomic functions of a living person.

"Limitation extension," see WAC 182-501-0169.

"Long-acting reversible contraceptive (LARC)" - Subdermal implants and intrauterine devices (IUDs).

"Maximum allowable fee" - The maximum dollar amount that the agency will reimburse a provider for specific services, supplies, and equipment.

"Medically necessary," see WAC 182-500-0070.

"Medication assisted treatment (MAT)" - The use of Federal Drug Administration-approved medications that have published evidence of effectiveness, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

"Medicare clinical diagnostic laboratory fee schedule" - The fee schedule used by Medicare to reimburse for clinical diagnostic laboratory procedures in the state of Washington.

"Medicare physician fee schedule database (MPFSDB)" - The official CMS publication of the Medicare policies and RVUs for the RBRVS reimbursement program.

"Medicare program fee schedule for physician services (MPFSPS)" - The official CMS publication of the Medicare fees for physician services.

"Mentally incompetent" - A client who has been declared mentally incompetent by a federal, state, or local court.

"Modifier" - A two-digit alphabetic and/or numeric identifier that is added to the procedure code to indicate the type of service performed. The modifier provides the means by which the reporting physician can describe or indicate that a performed service or procedure has been altered by some specific circumstance but not changed in its definition or code. The modifier can affect payment or be used for information only. Modifiers are listed in fee schedules.

"Outpatient," see WAC 182-500-0080.

"Peer-reviewed medical literature" - A research study, report, or findings regarding a medical treatment that is published in one or more reputable professional journals after being critically reviewed by appropriately credentialed experts for scientific validity, safety, and effectiveness.

"Physician care plan" - A written plan of medically necessary treatment that is established by and periodically reviewed and signed by a physician. The plan describes the medically necessary services to be provided by a home health agency, a hospice agency, or a nursing facility.

"Physician standby" - Physician attendance without direct face-to-face client contact and which does not involve provision of care or services.

"Physician's current procedural terminology," see "current procedural terminology (CPT)."

"PM&R," see acute physical medicine and rehabilitation.

"Podiatric service" - The diagnosis and medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the foot and ankle.

"Point-of-sale (POS) actual acquisition cost (AAC)" - The agency determined rate paid to pharmacies through the

POS system, which is intended to reflect pharmacy providers' actual acquisition cost.

"Pound indicator (#)" - A symbol (#) indicating a CPT procedure code listed in the agency's fee schedules that is not routinely covered.

"Preventive" - Medical practices that include counseling, anticipatory guidance, risk factor reduction interventions, and the ordering of appropriate laboratory and diagnostic procedures intended to help a client avoid or reduce the risk or incidence of illness or injury.

"Prior authorization," see WAC 182-500-0085.

"Professional component" - The part of a procedure or service that relies on the provider's professional skill or training, or the part of that reimbursement that recognizes the provider's cognitive skill.

"Prognosis" - The probable outcome of a client's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the client's probable life span as a result of the illness.

"Prolonged services" - Face-to-face client services furnished by a provider, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services. The time counted toward payment for prolonged E&M services includes only face-to-face contact between the provider and the client, even if the service was not continuous.

"Provider," see WAC 182-500-0085.

"Radioallergosorbent test" or "RAST" - A blood test for specific allergies.

"RBRVS," see resource based relative value scale.

"RBRVS RVU" - A measure of the resources required to perform an individual service or intervention. It is set by Medicare based on three components - Physician work, practice cost, and malpractice expense. Practice cost varies depending on the place of service.

"Reimbursement" - Payment to a provider or other agency-approved entity who bills according to the provisions in WAC 182-502-0100.

"Reimbursement steering committee (RSC)" - An interagency work group that establishes and maintains RBRVS physician fee schedules and other payment and purchasing systems utilized by the agency and the department of labor and industries.

"Relative value guide (RVG)" - A system used by the American Society of Anesthesiologists for determining base anesthesia units (BAUs).

"Relative value unit (RVU)" - A unit that is based on the resources required to perform an individual service or intervention.

"Resource based relative value scale (RBRVS)" - A scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

"RSC RVU" - A unit established by the RSC for a procedure that does not have an established RBRVS RVU or has an RBRVS RVU deemed by the RSC as not appropriate for the service.

"RVU," see relative value unit.

"Stat laboratory charges" - Charges by a laboratory for performing tests immediately. "Stat" is an abbreviation for the Latin word "statim," meaning immediately.

"Sterile tray" - A tray containing instruments and supplies needed for certain surgical procedures normally done in an office setting. For reimbursement purposes, tray components are considered by CMS to be nonroutine and reimbursed separately.

"Technical advisory group (TAG)" - An advisory group with representatives from professional organizations whose members are affected by implementation of RBRVS physician fee schedules and other payment and purchasing systems utilized by the agency and the department of labor and industries.

"Technical component" - The part of a procedure or service that relates to the equipment set-up and technician's time, or the part of the procedure and service reimbursement that recognizes the equipment cost and technician time.

NEW SECTION

WAC 182-531-2040 Enhanced reimbursement—Medication assisted treatment for opioid use disorder. (1) The Medicaid agency pays an enhanced reimbursement using the Medicare rate when medication assisted treatment (MAT) is part of the visit for selected evaluation and management (E/M) codes and the provider meets the criteria in this section.

(2) The purpose of this enhanced reimbursement is to encourage providers to obtain and use a Drug Addiction Treatment Act of 2000 waiver (DATA 2000 waiver) to increase client access to evidence-based treatment using medications for opioid use disorder.

(3) To receive the enhanced reimbursement for MAT, a provider must:

(a) Bill using the agency's expedited prior authorization process;

(b) Currently use a DATA 2000 waiver to prescribe MAT to clients with opioid use disorder;

(c) Bill for treating a client with a qualifying diagnosis for opioid use disorder; and

(d) Provide opioid-related counseling during the visit.

(4) The agency payment for MAT under this section is limited to one enhanced reimbursement, per client, per day.

(5) The agency does not pay an enhanced reimbursement for services a client receives for opioid use disorder through an opioid treatment program facility licensed by the department of health.

WSR 19-03-146

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-14—Filed January 22, 2019, 12:16 p.m., effective January 22, 2019, 12:16 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial sea urchin fisheries.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000K; and amending WAC 220-340-750.

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: This emergency rule is needed to close commercial red sea urchin harvest in District 1 to prevent overharvest as quota has been reached. Harvestable surpluses of sea urchin exist in the districts specified. 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 the Request of a Non-governmental 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 22, 2019.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000L Commercial sea urchin fisheries. Notwithstanding the provisions of WAC 220-340-750, 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 areas are open for red sea urchin harvest seven days-per-week: Marine Fish Shellfish Management and Catch Reporting Areas 23B, 25A, 25B in District 2, 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 fish for, take, or possess 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 for green sea urchin harvest seven days-per-week: Sea Urchin District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude, District 6, and District 7 except all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122 degrees 35 minutes west longitude to 47 degrees 14 minutes north latitude, and thence pro-

jected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122 degrees 41 minutes west longitude to 47 degrees 16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island. It is unlawful to fish for, take, or possess green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) The maximum cumulative landings for red sea urchin and green sea urchin for each weekly fishery opening period is 1,500 pounds per species per valid designated sea urchin harvest license. Each fishery week begins Monday and extends through Sunday.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-340-75000K Commercial sea urchin fisheries.
(19-12)