

WSR 22-05-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 22-16—Filed February 4, 2022, 12:39 p.m., effective February 4, 2022, 12:39 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set the opening of the Makah special management area (SMA) to state licensed fishermen.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000Z and 220-340-45000H; 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: The stepped opening periods/areas accommodate delayed openings for state license holders as specified in state-tribal harvest management agreements and provide for fair start provisions. Provisions of the State/Makah Harvest Management Agreement allow for the opening of Makah SMA to state license holders and specifies a temporary pot limit.

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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 4, 2022.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000C 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 15, 2022 and;

(b) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel-hold inspection certificates dated from November 30, 2021 through January 9, 2022, are only valid for the area south of 46°28.00 N. Lat.

(2) 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 360-580-6200, 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.

(3) It is unlawful for a vessel to use more than 200 pots in the Makah SMA beginning 8:00 A.M. February 11, until 8:00 A.M. March 14, 2022. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:

- Fax transmission to Jamie Fuller at 360-249-1229;
- E-mail to Jamie Fuller at Jamie.Fuller@dfw.wa.gov; or
- Telephone call to Jamie Fuller at 360-580-0875.

(4) Unless otherwise amended all other provisions of the permanent rule remain in effect.

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Reviser's note: The unnecessary underscoring 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.

NEW SECTION

WAC 220-340-45000I Commercial crab fishery—Seasons and areas—Coastal. Notwithstanding the provisions 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 the WA/OR border (46°15.00) to the US/Canada border including Grays Harbor and Willapa Bay, except Quinault PSMA, Quileute SMA, Makah SMA as listed below (section 4), and:

Licenses and vessels designated to those licenses that at any time participated in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California, to Klipsan Beach, Washington (46°28.00), including Willapa Bay, from December 1, 2021 until the area north of Klipsan Beach (46°28.00) opens, are prohibited from fishing in the waters between Oysterville (46°33.00) and US/Canada Border until 8:00 a.m. February 15, 2022.

(2) 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.

(3) 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.

(4) The Makah special management area (SMA) is closed to fishing until 8:00 AM, February 11, 2022. 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.

(5) Unless otherwise amended all other provisions of the permanent rule remain in effect.

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REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-340-42000Z Commercial crab fishery—Unlawful acts.
(21-281)

WAC 220-340-45000H Commercial crab fishery—Season and
areas—Coastal. (22-04)