



RULE-MAKING ORDER

CR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 09-277

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: Commercial fishing rules

Citation of existing rules affected by this order:

Repealed: WAC 220-42-05000L and WAC 220-52-04600K
 Amended: WAC 220-52-040, WAC 220-52-046
 Suspended:

Statutory authority for adoption: RCW 77.12.047, RCW 77.04.020 and RCW 77.70.430

Other authority :

EMERGENCY RULE

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.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Mandatory meat pick-out rate allowance for coastal crab will be achieved by the opening dates contained herein. The stepped opening periods/areas will also provide for fair start provisions. There is insufficient time to adopt permanent rules

Date adopted: December 23, 2009

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 23, 2009

TIME: 10:22 AM

WSR 10-01-200

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|---|-----|-------|---------|-------|----------|-------|
| Federal statute: | New | _____ | Amended | _____ | Repealed | _____ |
| Federal rules or standards: | New | _____ | Amended | _____ | Repealed | _____ |
| Recently enacted state statutes: | New | _____ | Amended | _____ | Repealed | _____ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in the agency's own initiative:

| | | | | | |
|-----|----------|---------|-------|----------|----------|
| New | <u>2</u> | Amended | _____ | Repealed | <u>2</u> |
|-----|----------|---------|-------|----------|----------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted using:

| | | | | | | |
|---------------------------------------|-----|-------|---------|-------|----------|-------|
| Negotiated rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Pilot rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Other alternative rule making: | New | _____ | Amended | _____ | Repealed | _____ |

NEW SECTION

WAC 220-52-04000N Commercial crab fishery. Lawful and Unlawful gear, methods and other unlawful acts.

- (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, the Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean through January 31, 2010, from any vessel unless:
 - (a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel hold inspection certificates dated from November 30, 2009, to December 25, 2009 are only valid for the area south of 46°28.00.
 - (b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through January 31, 2010.
- (2) Notwithstanding the provisions of WAC 220-52-040, it is permissible for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery between Klipsan Beach (46°28.00) and Destruction Island (47°40.50'). The primary operator of the vessel associated with the pots being transported must be aboard the vessel while they are being deployed. All other provisions of the permanent rule remain in effect.
- (3) Notwithstanding the provisions of WAC 220-52-040, effective immediately through 12:01 a.m., January 2, 2010, it is unlawful for persons participating in the commercial Dungeness crab fishery in the Columbia River, Willapa Bay, or coastal fishery south of Klipsan Beach, Washington (46°28.00) 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.
- (4) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, 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. with crab caught south of Klipsan Beach (46°28.00) unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife and allows a vessel-hold inspection if requested by Fish and Wildlife officers prior to entering this area. Prior to entering the area north of 47°00.00 N. Lat., the vessel operator must call 360-581-3337, 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.

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- (c) The vessel does not enter the area north of Cape Johnson (47°58 N. Lat.) with crab caught south of Destruction Island (47°40.50) unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife and provides a vessel hold inspection if requested by Fish and Wildlife officers prior to entering this area. Prior to entering the area north of Cape Johnson (47°58 N. Lat.), the vessel operator must call 360-581-3337, and reports the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the estimated date, time and location of delivery 24 hours prior to entering the area.

NEW SECTION

WAC 220-52-04600M Coastal crab seasons.

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

- (1) The area from Klipsan Beach (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay.
- (2) For the purposes of this order, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.
- (3) Vessels 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:
 - a. Fishing in the area between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 A.M., January 12, 2010.
 - b. Fishing in the area between Oysterville (46°33.00) and Destruction Island (47°40.50') until 8:00 A.M., February 6, 2010.
 - c. Fishing in the area from Destruction Island (47°40.50) to the U.S./Canada border until 8:00 A.M., February 6, 2010.
- (4) Crab gear may be set in the area between Klipsan Beach (46°28.00) and Destruction Island, including Grays Harbor, beginning at 8:00 A.M. December 30, 2009.

- (5) It is permissible to pull crab gear in the area between Klipsan Beach and Destruction Island and Grays Harbor beginning at 12:01 A.M. January 2, 2010.

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- (6) The Quinault primary special management area (PSMA) is closed to fishing for Dungeness crab until 8:00 A.M. March 1, 2010. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:
- | | | |
|-----------------------------------|------------------|-------------------|
| Northeast Corner (Raft River): | 47°28.00 N. Lat. | 124°20.70 W. Lon. |
| Northwest Corner: | 47°28.00 N. Lat. | 124°34.00 W. Lon. |
| Southwest Corner: | 47°08.00 N. Lat. | 124°25.50 W. Lon. |
| Southeast Corner (Copalis River): | 47°08.00 N. Lat. | 124°11.20 W. Lon. |

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

REPEALERS

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04000L Commercial crab fishery. Lawful and Unlawful gear, methods and other unlawful acts. (09-258)

WAC 220-52-04600K Coastal crab seasons (09-258)