RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:
Emergency Rules 13-14
☒ 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: Amend commercial fishing rules

Citation of existing rules affected by this order:
Repealed: WAC 220-52-0400U, WAC 220-52-04600E
Amended: WAC 220-52-040, WAC 220-52-046
Suspended:

Statutory authority for adoption: RCW 77.12.047 and RCW 77.04.020

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 year 2009, 2010, 2011, 2012, or 2013, 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 Special Management Areas are listed in accordance with state/tribal management agreements. The stepped opening periods/areas will also provide for fair start provisions. There is insufficient time to adopt permanent rules.

Date adopted: January 18, 2013

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 18, 2013
TIME: 11:42 AM

WSR 13-03-116

(COMPLETE REVERSE SIDE)

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 2 Amended _____ Repealed 2

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	_____

N E W S E C T I O N

WAC 220-52-04000W 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 February 28, 2013, from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel.

(b) Vessel hold inspection certificates dated from December 30, 2012, to January 22, 2013, are only valid for the area south of 46°28.00.

(c) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through February 28, 2013.

(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 the U.S./Canada Border. The primary or alternate operator of the crab pot gear named on the license associated with the gear must be on board the vessel when the gear is being deployed. All other provisions of the permanent rule remain in effect.

(a) Such a vessel may deploy crab pot gear only during the 64-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date.

N E W S E C T I O N

WAC 220-52-04600H 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: Open.

(2) Temporary pot limits in place in the area between Klipsan Beach (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay are lifted, and fishers may use their entire permanent pot limit starting at 8:00 am on January 21, 2013

(3) 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.

(4) Dungeness crab license holders, or any vessel or vessel operator designated on the license that 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, 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., February 3, 2013.
b. Fishing in the area between Oysterville (46°33.00) and the U.S./Canada border until 8:00 A.M., February 28, 2013.

(5) Crab gear may be set in the area between Klipsan Beach (46°28.00) and the U.S. / Canada Border, including Grays Harbor, beginning at 8:00 a.m. January 21, 2013.

(6) It is permissible to pull crab gear in the area between Klipsan Beach and the U.S. / Canada Border, including Grays Harbor, beginning at 12:01 a.m. January 24, 2013.

(7) 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 (47º28.00) 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.

(8) 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:

- Northeast Corner (Cape Johnson): 47°58.00’ N. Lat. 124°40.40’ W. Lon.
- Northwest Corner: 47°58.00’ N. Lat. 124°49.00’ W. Lon.
- Southwest Corner: 47°40.50’ N. Lat. 124°40.00’ W. Lon.
- Southeast Corner (Destruction Island): 47°40.50’ N. Lat. 124°24.43’ W. Lon.

(9) 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:

- Northeast Corner (Tatoosh Island)
- Northwest Corner: 48°19.50 N. Lat. 124°50.45 W. Lon.
- Southwest Corner: 48°02.15 N. Lat. 124°50.45 W. Lon.
- Southeast Corner: 48°02.15 N. Lat. 124°41.00 W. Lon.

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

R E P E A L E R S

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04000U Commercial crab fishery. Lawful and Unlawful gear, methods and other unlawful acts. (12-284)
WAC 220-52-04600E Coastal crab seasons (12-284)

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( ) 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, 2011, or 2012, 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 Special Management Areas are listed in accordance with state/tribal management agreements. The stepped opening periods/areas will also provide for fair start provisions. There is insufficient time to adopt permanent rules.
(13-14, 1/18/2013)