



**RULE-MAKING ORDER
EMERGENCY RULE ONLY**

**CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 04, 2022

TIME: 12:39 PM

WSR 22-05-022

Agency: Department of Fish and Wildlife (Order 22-16)

Effective date of rule:

Emergency Rules

- 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: 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:

- New:
- Repealed: WAC 220-340-42000Z; WAC 220-340-45000H
- Amended: WAC 220-340-420; WAC 220-340-450
- Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.12.045 and 77.12.047

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.

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.

**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| Federal statute: | New | ___ | Amended | ___ | Repealed | ___ |
| Federal rules or standards: | New | ___ | Amended | ___ | Repealed | ___ |
| Recently enacted state statutes: | New | ___ | Amended | ___ | Repealed | ___ |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 on 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 | ____ |

| |
|---------------------------------------|
| Date Adopted: February 4, 2022 |
| Name: Kelly Susewind |
| Title: Director |

Signature:



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.

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.

REPEALERS

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)