

Shellfish Regulation Proposal – (Rule Adoption)

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Summary

Meeting dates: December 9-10, 2016

Agenda item: Illegal, Unreported, or Unregulated fisheries (IUU) for King Crab – Decision

Presenter(s): Mike Cenci, Deputy Chief, Enforcement

Background summary:

At the November 4-5 Commission meeting, the WDFW Enforcement Program briefed the Fish and Wildlife Commission on rules needed to enable Enforcement officers to better regulate the illegal importation of King Crab into Washington.

By adding three species of King Crab to the current shellfish classification, brokers who currently conduct business in Washington state will be required to obtain a wholesale fish dealers license and maintain and produce records for inspection by Fish and Wildlife Police. Shippers and storage facilities will not be required to be licensed, but will be required to produce records associated with the origin of crab. These records are already maintained, however access to that information cannot be compelled for inspection purposes unless a classified species is identified. A number of the seafood brokers, shippers and cold storage facilities dealing in King Crab are already licensed due to their involvement in trading or storing classified species.

Policy issue(s) you are bringing to the Commission for consideration:

Whether the Commission wishes to leverage its enforcement presence to address the possibility that our state is a safe haven for illegal imports that compete with legitimate local interests.

Public involvement process used and what you learned:

WDFW Police collaborated with the WDFW representative on the North Pacific Council to connect with members of commercial industry. The North Pacific Crabbers Association and Alaska Processors have both written letters supporting our efforts to combat illegal trade in crab. No public input has been received since the November briefing. In addition, the department website provided instructions, associated documents, a timeline and the ability to submit and comment on the proposal online. The public was also invited to comment at the November Commission meeting.

Action requested:

Requesting the approval and adoption of the amendment to an existing shellfish WAC.

Draft motion language:

Move to approve the amendment of WAC 220-12-020 as presented by staff.

Justification for Commission action:

.This action is justified under RCW 77.12.047.

Communications Plan:

Officers will educate businesses identified as operating without licenses and maintain a license enforcement tolerance for a reasonable time. A web page is being designed that will provide information, and other material will be developed and distributed through public contacts.

Form revised 12/5/12

Shellfish Regulation Proposal – (Rule Adoption)



December 9, 2016

PROPOSED AMENDMENT

Type of Rule Change Proposal

Commercial

Short Description

This proposal adds three species of King Crab to the current shellfish rule classification in WAC 220-12-020.

Explanation

The purpose of this proposal is to improve enforcement against the illegal, unreported and unregulated fisheries (“IUU”) that undermine conservation and threaten the domestic King Crab market.

Written Testimony (2 comments)

Support (2): Comments include the following:

- Alaska Bering Sea Crabbers also supports adding three King crab (species) to the current shellfish classification in the Washington Administrative Code in order to assist with enforcing IUU provisions in Washington State. As mentioned in the beginning of this letter, our fisherman “play by the rules” and only ask that our competition do the same. For many years now we have asked for nothing more than a “level playing field” when bringing our product to market and we fully believe the WDFW proposal will help do just that.
- We (North Pacific Crab Association) believe our products can compete fairly with anything produced in Russia. We just want an equal playing field for doing so. We know that your agency has the tools to help protect domestically produced and marketed crab products.

Oppose (0): No comments

General (0): No Comments

Public Hearing (0 comments)

No comments

Modifications

None

Staff Recommendation

Adopt as presented.



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Fish and Wildlife (WDFW)

- Preproposal Statement of Inquiry was filed as WSR 16-13-149 _____ ; or
 Expedited Rule Making--Proposed notice was filed as WSR _____ ; or
 Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)
Classification of shellfish under WAC 220-12-020.

Hearing location(s):
Natural Resource Building
1111 Washington Street SE
Olympia, WA 98501

Date: November 4-5, 2016 Time: 8:00 am -5:00 pm

Date of intended adoption: December 11, 2016
(Note: This is NOT the effective date)

Submit written comments to:

Name: Scott Bird WDFW Rules Coordinator
Address: 600 Capitol Way North
Olympia, WA 98501-1091
e-mail Rules.Coordinator@dfw.wa.gov
fax (360)902-2155 _____ by (date) November 2, 2016 _____

Assistance for persons with disabilities: Contact
Delores Noyes by November 3, 2016
TTY (360) 902-2207 or (360) 902- 2349

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

See Attachment A

Reasons supporting proposal:

See Attachment B

Statutory authority for adoption: RCWs 77.12.047, 77.04.020, 77.05.055, 77.12.047, 77.12.150, 77.12.240 and 77.12.800

Statute being implemented: RCWs 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.150, 77.12.240 and 77.12.800

Is rule necessary because of a:

- Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes No
 If yes, CITATION: Yes No

DATE
August 8, 2016

NAME (type or print)
Scott Bird

SIGNATURE *Scott Bird*

TITLE Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 12, 2016

TIME: 8:16 AM

WSR 16-17-055

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Washington Department of Fish and Wildlife (WDFW)

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Mike Cenci	1111 Washington Street Olympia, WA 98501	(360) 902- 2329
Implementation..... Scott Bird	1111 Washington Street Olympia, WA 98501	(360) 902-2403
Enforcement..... Mike Cenci	1111 Washington Street Olympia, WA 98501	(360) 902-2329

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Scott Bird
Address: WDFW Enforcement Program
600 Capitol Way North
Olympia, WA 98501
phone (360) 902-2403 _____
fax (360)902-2466 _____
e-mail Scott.Bird@dfw.wa.gov _____

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:

phone () _____
fax () _____
e-mail _____

No: Please explain: The rule proposal did not affect hydraulics.

Small Business Economic Impact Statement

1. Description of the reporting, record keeping, and other compliance requirements of the proposed rule.

The proposed rule adds three species of King Crab to the current shellfish rule classification. Currently, brokers, original receivers, shippers and storage facilities maintain and produce records for inspection related to the origin of classified and regulated seafood. If a broker or original receiver buys, sells or receives these three species - Blue King Crab, Red King Crab or Golden King Crab, they will have to obtain a wholesale fish dealer's license and maintain and produce records for inspection as they do for other classified and regulated species. Likewise, both shippers and storage facilities will also be required to maintain and produce records for these three species.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements.

Compliance with the proposed rule will not require professional services.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs.

None. The proposed rule does not affect any costs of compliance; it simply requires certain businesses to ensure that they are properly licensed and maintain records of various species of King Crab in their possession.

4. Will compliance with the rule cause businesses to lose sales or revenue?

No. Compliance will have no effect on sales or revenue.

5. Cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

None. The proposed rule does not require any additional equipment, supplies, labor or administrative costs.

6. Steps taken by the agency to reduce the costs of the rule on small businesses or reasonable justification for not doing so.

Small businesses will not be negatively affected by this proposed rule but will in fact benefit from its adoption. The rule is designed to better account for the large volume of foreign-caught King Crab that is imported into Washington state and undermines local businesses and the fishing community in general.

7. A description of how the agency will involve small businesses in the development of the rule.

Local businesses and the North Pacific Crab Association have already provided both oral and written support for the adoption of this rule. A public hearing will be held to review the rule as part of the regular rule-making process.

8. A list of industries that will be required to comply with the rule.

Commercial fish brokers, original receivers, shippers, and storage facilities of King Crab.

Attachment A

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of this proposed rule is to add three shellfish species to the list of classified shellfish in WAC 220-12-020 which include *Paralithodes platypus*, *Paralithodes camtschaticus* and *Lithodes aequispinus*.

By adding these three species of King Crab to the current shellfish classification, brokers and original receivers who currently conduct business in Washington state will be required to obtain a wholesale fish dealers license and maintain and produce records for inspection by Fish and Wildlife Police. Shippers and storage facilities will not be required to be licensed, but will be required to produce records associated with the origin of King Crab. These records are already maintained through the regular course of doing business; however, access to these records cannot be compelled for inspection purposes unless a classified species is first identified. A number of the seafood brokers, shippers and cold storage facilities dealing in King Crab are already licensed due to their involvement in trading or storing classified species.

Attachment B

Reasons supporting proposal:

Currently, the illegal, unreported, and unregulated fisheries (“IUU”) are a global problem and negatively impact conservation, undermine legitimate fishery markets, and affect domestic interests. The Russian King Crab fishery is at the top of the unsustainable fishery list, and directly competes with the Alaskan and Washington crab fisheries.

Failing to control the importation of illegally harvested crab from Russia has a rippling effect, driving down prices for West Coast harvests. According to members of the Bering Sea Crab Association (BSCA), the IUU issue has resulted in an estimated \$600 million loss in crab related revenue and tax since 2000.

Of the \$255 million of the US' frozen crab imports from Russia in 2015, 79% are imported through Washington State ports (Blaine, Seattle, Tacoma, and Bellingham). Over the last 5 years, as much as 88% (2014) of all frozen (king and snow) crab from Russia entered through local ports. Unfortunately, Washington State is considered to be the original receiver and distribution point for illegal Russian origin crab destined for domestic markets. This rule change will help facilitate market place enforcement to ensure the interests of Washington commercial fishing businesses and families are protected.

WAC 220-12-020 Shellfish—Classification. The following species are classified as shellfish under RCW 77.12.047 and are subject to the provisions of this title:

Abalone	
Pinto abalone	<i>Haliotis kamtschatkana</i>
Mussel	
Blue mussel	<i>Mytilus trossulus</i>
California mussel	<i>Mytilus californianus</i>
Mediterranean mussel	<i>Mytilus galloprovincialis</i>
Scallops	
Pacific pink scallop	<i>Chlamys rubida</i>
Rock scallop	<i>Crassadoma gigantea</i>
Spiny scallop	<i>Chlamys hastata</i>
Weathervane scallop	<i>Patinopecten caurinus</i>
Clams	
All macoma clams	<i>Macoma spp.</i>
Butter clam	<i>Saxidomus giganteus</i>
Common cockle	<i>Clinocardium nuttallii</i>
Geoduck	<i>Panopea abrupta</i>
Horse or Gaper clam	<i>Tresus nuttallii,</i> <i>Tresus capax</i>
Mud or soft shell clam	<i>Mya arenaria</i>
Manila clam	<i>Venerupis philippinarum</i>
Piddock	<i>Zirfaea pilsbryi</i>
Razor clam	<i>Siliqua patula</i>
Rock or native little neck clam	<i>Leukoma staminea</i>
Varnish clam	<i>Nuttallia obscurata</i>
All other marine clams existing in Washington in a wild state	
Oysters	
All oysters	(Ostreidae)
Squid	
All squid	Sepiolida or Teuthida
Octopus	
Octopus	<i>Enteroctopus dofleini</i>
Barnacles	
Goose barnacle	<i>Pollicipes polymerus</i>
Shrimp	
Coonstripe shrimp	<i>Pandalus danae</i>
Coonstripe shrimp	<i>Pandalus hypsinotus</i>
Ghost or sand shrimp	<i>Neotrypaea spp.</i>
Humpy shrimp	<i>Pandalus goniurus</i>
Mud shrimp	<i>Upogebia pugettensis</i>
Ocean pink shrimp	<i>Pandalus jordani</i>

Pink shrimp	<i>Pandalus eous</i>
Sidestripe shrimp	<i>Pandalopsis dispar</i>
Spot shrimp	<i>Pandalus platyceros</i>
Crab	
Dungeness or Pacific crab	<i>Cancer magister</i>
Red rock crab	<i>Cancer productus</i>
Tanner crab	<i>Chionoecetes tanneri</i>
King and box crab	<i>Lopholithodes spp.</i>
<u>Blue king crab</u>	<u><i>Paralithodes platypus</i></u>
<u>Red king crab</u>	<u><i>Paralithodes camtschaticus</i></u>
<u>Golden king crab</u>	<u><i>Lithodes aequispinus</i></u>
Crawfish	
Crawfish	<i>Pacifastacus sp.</i>
Sea cucumber	
Sea cucumber	<i>Parastichopus californicus</i>
Sea urchin	
Green urchin	<i>Strongylocentrotus droebachiensis</i>
Red urchin	<i>Strongylocentrotus franciscanus</i>
Purple urchin	<i>Strongylocentrotus purpuratus</i>

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