



# 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 09-258**

- 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Repealed:  
 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 pick 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. Pot limits will reduce the crowding effect in this restricted area. There is insufficient time to adopt permanent rules.

**Date adopted:** November 24, 2009

**NAME (TYPE OR PRINT)**

Philip Anderson

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** November 24, 2009

**TIME:** 4:27 PM

**WSR 09-24-054**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>2</u>	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## NEW SECTION

### **WAC 220-52-04000L 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, 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-hold 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 N. Lat.
  - (b) The vessel-hold 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, effective immediately until further notice, it is unlawful for persons participating in the Columbia River, Coastal, or Willapa Bay commercial Dungeness crab fishery to:
  - (a) Deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness 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.
  
- (3) 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. unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife at the phone number below 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.

## NEW SECTION

### **WAC 220-52-04600K 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) Open area: 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) Crab gear may be set beginning at 8:00 a.m., November 28, 2009.
- (4) It is permissible to pull crab gear beginning at 12:01 a.m., December 1, 2009.
- (5) Vessels that participate in the Coastal Dungeness commercial 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, 2009.
  - b. Fishing in the area between Oysterville (46°33.00) and Destruction Island until 8:00 a.m., February 6, 2009.
  - c. Fishing in the area between Destruction Island and the U.S. Canadian border until 8:00 a.m., February 6, 2009.
- (6) All other provisions of the permanent rule remain in effect.