



# 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

**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](mailto: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

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

**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**

**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:

<b>Abalone</b>	
Pinto abalone	<i>Haliotis kamtschatkana</i>
<b>Mussel</b>	
Blue mussel	<i>Mytilus trossulus</i>
California mussel	<i>Mytilus californianus</i>
Mediterranean mussel	<i>Mytilus galloprovincialis</i>
<b>Scallops</b>	
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>
<b>Clams</b>	
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	
<b>Oysters</b>	
All oysters	(Ostreidae)
<b>Squid</b>	
All squid	Sepiolida or Teuthida
<b>Octopus</b>	
Octopus	<i>Enteroctopus dofleini</i>
<b>Barnacles</b>	
Goose barnacle	<i>Pollicipes polymerus</i>
<b>Shrimp</b>	
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>
<b>Crab</b>	
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>
<b>Crawfish</b>	
Crawfish	<i>Pacifastacus sp.</i>
<b>Sea cucumber</b>	
Sea cucumber	<i>Parastichopus californicus</i>
<b>Sea urchin</b>	
Green urchin	<i>Strongylocentrotus droebachiensis</i>
Red urchin	<i>Strongylocentrotus franciscanus</i>
Purple urchin	<i>Strongylocentrotus purpuratus</i>