



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 15-168

- 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 coastal commercial crab fishing rules

Citation of existing rules affected by this order:

Repealed: WAC 220-52-04500G
 Amended: WAC 220-52-045
 Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020 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.
- 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: Test results from the Washington Department of Health show that crab tested in the area between the WA/OR border and Point Chehalis are not safe for human consumption. Levels of domoic acid, detected through routine testing have exceeded the federally established action level. There is insufficient time to adopt permanent rules. The extension of the deadline for removing commercial crab gear from the closed area is to address ocean conditions and allow gear to be recovered safely and does not affect the closure date or compromise public health.

Date adopted: June 9, 2015

NAME (TYPE OR PRINT)

J W Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 09, 2015

TIME: 11:58 AM

WSR 15-13-044

(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 | <u>1</u> | Amended | _____ | Repealed | <u>1</u> |
|-----|----------|---------|-------|----------|----------|

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 | _____ |

ORDER NO. 15-168

NEW SECTION

WAC 220-52-04500H Commercial crab fishery—Seasons and areas—Coastal.

Notwithstanding the provisions of WAC 220-52-045, 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 Point Chehalis (46°53.18), Washington to the U.S./Canada Border, including Grays Harbor: Open.
- (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) The Quinault Secondary Special Management Area (SSMA) is closed to fishing for Dungeness crab from the area shoreward of a line approximating the 27-fathom depth curve between Split Rock (47°24.50) and the mouth of the Joe Creek (47°12.11). This area is closed until further notice. The legal modified SSMA is defined by the following coordinates:
 - (a) Northeast Corner (Split Rock): 47°24.50 N. Lat. 124°20.00 W. Lon.
 - (b) Northwest Corner: 47°24.50 N. Lat. 124°32.40 W. Lon.
 - (c) Southwest Corner: 47°12.11 N. Lat. 124°27.33 W. Lon.
 - (d) Southeast Corner (Joe Creek): 47°12.11 N. Lat. 124°12.28 W. Lon.
- (4) Notwithstanding the provisions of WAC 220-52-045, effective immediately, it is unlawful to:
 - (a) Fish for Dungeness crab in the coastal waters of the Pacific Ocean between the Washington /Oregon border (46°15.00) and Point Chehalis (46°53.18), Washington;
 - (b) Fish for Dungeness crab in Willapa Bay and the Columbia River;
 - (c) Effective 12:01 a.m. June 17, 2015, it is unlawful to set, maintain, operate, or possess in those waters listed in subsections (9)(a) and (b) of this section, any baited or unbaited shellfish pots or ring nets for any reason; and
 - (d) Possess, transport or deliver Dungeness crab within the waters closed in this section unless the following conditions are met:
 - (i) Vessels that participate in the coastal Dungeness crab fishery from north of Point Chehalis (46°53.18) or south of the WA/OR border may possess crab for delivery into Washington ports south of Point Chehalis (46°53.18), provided the crab were taken north of Point Chehalis (46°53.18) or south of the WA/OR border.

- (ii) Prior to entering Washington coastal waters of the Pacific Ocean between the WA/OR border (46°15.00) and Point Chehalis, Washington (46°53.18), including Willapa Bay and the Columbia River, 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.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04500G Coastal crab seasons. (15-166)

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

(x) 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, 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: Test results from the Washington Department of Health show that crab tested in the area between the WA/OR border and Point Chehalis are not safe for human consumption. Levels of domoic acid, detected through routine testing have exceeded the federally established action level. There is insufficient time to adopt permanent rules. The extension of the deadline for removing commercial crab gear from the closed area is to address ocean conditions and allow gear to be recovered safely and does not affect the closure date or compromise public health.

(15-168, 6/9/2015)