



# 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 16-331**

- Immediately upon filing.
- Later (specify) 8:00 a.m. December 29, 2016

**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Repealed:  
 Amended: WAC 220-52-040, WAC 220-52-045, WAC 220-52-049, WAC 220-52-038  
 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:** 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 and language improves enforcement of pot limits. A longer gear set period will allow for safer fishing conditions. A delay due to elevated marine toxins aligns with the Tri-State Crab Agreement and similar rules in Oregon and California. There is insufficient time to adopt permanent rules.

**Date adopted:** December 28, 2016

**NAME (TYPE OR PRINT)**

J W Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 28, 2016**  
**TIME: 3:10 PM**

**WSR 17-02-038**

(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:**

<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>4</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 220-52-04000Z Commercial crab fishery—Unlawful acts.**

Notwithstanding the provisions of WAC 220-52-040, 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 11, 2017 and;
  - (b) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel-hold inspection certificates dated from December 31, 2016 to January 5, 2017, are only valid for the area south of 46°28.00 N. Lat.
- (2) It is unlawful for persons participating in the Columbia River, Coastal, or Willapa Bay commercial Dungeness crab fishery until 8:00 a.m. January 4, 2017 to:
  - (a) Deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal 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) 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 360-485-8149, 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.
- (4) It is unlawful for a vessel not designated on a Dungeness crab coastal fishery license to deploy crab pot gear except under the following conditions:
  - (a) The vessel deploys pot gear only during the 73-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date;
  - (b) The undesignated vessel carries no more than 250 crab pots at any one time; and;
  - (c) The primary or alternate operator of the crab pot gear named on the license associated with the gear is on board the undesignated vessel while the gear is being deployed.

(6) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.500 Commercial fishing without a license—Penalty, depending on the circumstances of the violation.

(7) All other provisions of the permanent rule remain in effect.

## NEW SECTION

### **WAC 220-52-04500T 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 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.
  - (a) For the purposes of this section, the waters of Willapa Bay 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.
  - (b) It is permissible to set crab gear beginning at 8:00 a.m., December 29, 2016.
  - (c) It is permissible to pull crab gear beginning at 9:00 a.m., January 1, 2017.
  - (d) Licenses and vessels designated to those licenses that participate in the coastal commercial Dungeness 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 fishing in the following areas for the durations specified:
    - (e) The waters between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 a.m. January 17, 2017; and
    - (f) The waters between Oysterville (46°33.00) and the U.S. Canadian border until 8:00 a.m. February 11, 2017.
- (2) Open area: The area from Klipsan Beach (46°28.00) to the Queets River (47°31.70), Washington and Grays Harbor.
  - (a) It is permissible to set crab gear beginning at 8:00 a.m., January 4, 2017.
  - (b) It is permissible to pull crab gear beginning at 9:00 a.m., January 7, 2017.
- (3) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area where the season opening is delayed due to marine toxins for the first 30 days following the opening of the area if the vessel was employed in the coastal crab fishery during the previous 45 days.
- (4) All other provisions of the permanent rule remain in effect.

## NEW SECTION

### **WAC 220-52-04900A Commercial crab fishery—Gear limits—Coastal.**

Notwithstanding the provisions of WAC 220-52-049 effective immediately until further notice:

- (1) It is unlawful for a person to take or fish for Dungeness crab for commercial purposes in Grays Harbor, Willapa Bay, the Columbia River, or waters of the Pacific Ocean adjacent to the state of Washington unless the person's Dungeness crab coastal fishery license issued by the Department is assigned a crab pot limit.

- A violation of this subsection is punishable under RCW 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty.
- (2) All other provisions of the permanent rule remain in effect.

## NEW SECTION

### **WAC 220-52-03800A Commercial crab licenses.**

Notwithstanding the provisions of WAC 220-52-038 effective immediately until further notice:

(1) It is unlawful to take, fish for, land, or deliver crab for commercial purposes in Washington or offshore waters unless the person has the license required by statute or department rule, or if the person is a properly designated alternative operator to a valid license.

(a) For Puget Sound, a person must have a "Dungeness crab - Puget Sound" fishery license provided by RCW [77.65.130](#).

(b) For coastal waters, such person must have a "Dungeness crab - Coastal" fishery license provided by RCW [77.65.130](#).

(c) To use ring nets instead of or in addition to pots, a licensee must also have the "Crab ring net - Puget Sound" or "Crab ring net - non-Puget Sound" license as provided in RCW [77.65.130](#).

(d) Qualifications for the limited entry licenses, requirements for designating vessels, and use of alternate operators are provided in and controlled by chapters [77.65](#) and [77.70](#) RCW.

(2) It is unlawful to fish for or possess Dungeness crab or to deploy crab gear in offshore waters of the Pacific Ocean adjacent to the states of Oregon or California unless:

(a) The vessel operator possesses the licenses or permits required to commercially fish for Dungeness crab within the state waters of Oregon or California. Washington coastal Dungeness crab permits are valid only in Washington state waters, the Columbia River, Willapa Bay, Grays Harbor, and the Pacific Ocean in federal waters north of the Washington/Oregon border (46°15'00"N. Lat.), extending 200 nautical miles westward;

(b) the vessel operator complies with all shellfish pot gear restrictions in effect for vessels registered under the laws of California or Oregon while fishing offshore of California or Oregon.

(3) Violation of this section is a gross misdemeanor or a class C felony under RCW [77.15.500](#) Commercial fishing without a license—Penalty, depending on the circumstances of the violation.