



**RULE-MAKING ORDER  
EMERGENCY RULE ONLY**

**CR-103E (December 2017)  
(Implements RCW 34.05.350  
and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 24, 2019  
TIME: 5:33 PM

WSR 19-04-012

**Agency:** Department of Fish and Wildlife (Order 19-16)

**Effective date of rule:**

**Emergency Rules**

- 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 fishery rules.

**Citation of rules affected by this order:**

New:  
 Repealed:  
 Amended: WAC 220-340-420  
 Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.12.045 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.

**Reasons for this finding:** This rule is needed to restrict delivery of commercially caught crab that were harvested in areas that tests have shown high levels of domoic acid are present in the crab. These regulations are needed to protect public health and safety consistent with Washington Department of Health prescribed domoic acid action levels. There is insufficient time to adopt permanent rules.

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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New \_\_\_\_ Amended \_\_\_\_ Repealed \_\_\_\_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 on the agency's own initiative:**

New 1 Amended \_\_\_\_ Repealed \_\_\_\_

**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	____

**Date Adopted:** January 24, 2019

**Name:** Ron Warren for Kelly Susewind

**Title:** Director

**Signature:**



**WAC 220-340-42000M Commercial crab fishery—Unlawful acts.**

Notwithstanding the provisions of WAC 220-340-420, effective immediately until further notice:

(1) Crab size and sex restrictions. It is unlawful for any person acting for commercial purposes to take, possess, deliver, or otherwise control:

(a) Any female Dungeness crab; or

(b) Any male Dungeness crab measuring less than 6-1/4 inches, caliper measurement, at the widest part of the shell immediately in front of the points (tips).

(2) Violation of subsection (1) of this section is a gross misdemeanor or class C felony depending on the value of fish or shellfish taken, possessed, or delivered, punishable under RCW 77.15.550 (1)(c).

(3) Incidental catch may not be retained. It is unlawful to retain salmon, food fish, or any shellfish other than octopus that is taken incidental to any commercial crab fishing.

(4) Net fishing boats must not have crab on board. It is unlawful for any person to possess any crab on board a vessel geared or equipped with commercial net fishing gear while fishing with the net gear for commercial purposes or while commercial quantities of food fish or shellfish are on board. Violation of this subsection is a gross misdemeanor or class C felony punishable under RCW 77.15.550(1), depending on the quantity of crab taken or possessed.

(5) Area must be open to commercial crabbing. It is unlawful for any person to set, maintain, or operate any baited or unbaited shellfish pots or ring nets for taking crab for commercial purposes in any area or time that is not open for commercial crabbing by rule of the department, except when acting lawfully under the authority of a valid gear recovery permit as provided in WAC 220-340-450.

(6) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.550, or a gross misdemeanor punishable under RCW 77.15.522 depending on the circumstances of the violation.

(7) When it is unlawful to buy or land crab from the ocean without a crab vessel inspection. It is unlawful for any fisher or wholesale fish buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, the Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean from any vessel that has not been issued a Washington crab vessel inspection certificate during the first 30 days following the opening of a coastal crab season.

(a) Authorized department personnel will perform inspections for Washington crab vessel inspection certificates no earlier than 12 hours prior to the opening of the coastal crab season and during the following 30-day period.

(b) A Washington crab vessel inspection certificate may be issued to vessels made available for inspection at a Washington coastal port that:

(i) Are properly licensed commercial crab fishing; and

(ii) Contain no Dungeness crab on board the vessel.

(8) Violation of subsection (7) of this section is a gross misdemeanor, punishable under RCW 77.15.550 (1)(a) Violation of commercial fishing area or time—Penalty.

(9) Coastal - Barging of crab pots by undesignated vessels. 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 64-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.

(10) Violation of subsection (9) 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.

(11) It is unlawful to deliver crab into Washington that were caught in an area where crab viscera test results are at or above the Washington Department of Health action level of 30 parts per million for domoic acid, unless:

(a) the crab meat results from the same test are at or below the Washington Department of Health action level of 20 parts per million, then crab may be delivered provided they are eviscerated at a processing facility with an approved Hazard Analysis and Critical Control Point (HACCP) Plan.

(12) It is unlawful to deliver crab into Washington that were caught in an area adjacent to an area where crab viscera tested at or above the Washington Department of Health action level of 30 parts per million for domoic acid to which evisceration is required by the Oregon Department of Fish and Wildlife, unless:

(a) the crab are eviscerated at a processing facility with an approved Hazard Analysis and Critical Control Point (HACCP) Plan.

(13) Violation of subsection (11) or (12) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.550 Violation of commercial fishing area or time – Penalty.