



**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: February 06, 2019

TIME: 1:35 PM

WSR 19-05-001

Agency: Department of Fish and Wildlife (Order 19-24)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) 8:00 a.m. February 11, 2019

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- Repealed: WAC 220-340-42000L, WAC 220-340-45000J
- Amended: WAC 220-340-420, WAC 220-340-450
- 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 open the commercial crab fishery in the Makah Special Management Area. Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The agreed to criteria to include the area north of Destruction Island has been achieved. 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. Provisions in state/tribal management agreements will be achieved by the opening dates contained herein. The Special Management Areas are listed in accordance with state/tribal management agreements. 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 2 Amended ____ Repealed 2

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: February 6, 2019

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-420, effective 8:00 a.m. February 11, 2019, 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 14, 2019 and;
 - (b) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel-hold inspection certificates dated from January 3, 2019 to January 8, 2019, are only valid for the area south of 46°28.00' N. Lat.
- (2) It is unlawful for a vessel to use more than 200 pots in the Makah SMA beginning 8:00 A.M. February 11, 2019, until 8:00 A.M. March 13, 2019. Fishers must pre-register with the Department of Fish and Wildlife 24 hours prior to deploying gear in this area by one of the three following methods:
 - Fax transmission to Robert Morgan at 360-249-1229;
 - E-mail to Robert Morgan at Robert.Morgan@dfw.wa.gov; or
 - Telephone call to Robert Morgan at 360-249-1206.
- (3) All other provisions of the permanent rule remain in effect.

NEW SECTION

WAC 220-340-45000K Commercial crab fishery—Seasons and areas—Coastal.

Notwithstanding the provisions of WAC 220-340-450, effective 8:00 a.m. February 11, 2019 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) 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 8:00 a.m., January 7, 2019, are prohibited from fishing in the waters between Oysterville (46°33.00') and the U.S./Canada border until 8:00 a.m. February 14, 2019.
- (2) Open area: The area from Klipsan Beach (46°28.00') to Destruction Island (47°40.50') and Grays Harbor.
- (3) Open area: The area from Destruction Island (46°28.00) to the US/Canada Border
- (4) 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 biotoxins 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.

(5) The Quinault primary special management area (PSMA) is closed to fishing for Dungeness crab until further notice. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00') and Copalis River (47°08.00') according to the following coordinates:

- (a) Northeast Corner (Raft River): 47°28.00' N. Lat. 124°20.70' W. Lon.
- (b) Northwest Corner: 47°28.00' N. Lat. 124°34.00' W. Lon.
- (c) Southwest Corner: 47°08.00' N. Lat. 124°25.50' W. Lon.
- (d) Southeast Corner (Copalis River): 47°08.00' N. Lat. 124°11.20' W. Lon.

(6) The Quileute special management area (SMA) is closed to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

- (a) Northeast Corner (Cape Johnson): 47°58.00' N. Lat. 124°40.40' W. Lon.
- (b) Northwest Corner: 47°58.00' N. Lat. 124°49.00' W. Lon.
- (c) Southwest Corner: 47°40.50' N. Lat. 124°40.00' W. Lon.
- (d) Southeast Corner (Destruction Island): 47°40.50' N. Lat. 124°24.43' W. Lon.

(7) Effective 8:00 AM February 11, 2019, the Makah special management area (SMA) is open to fishing. The SMA includes the waters between 48°02.15' N. Lat. and 48°19.50' N. Lat. east of a line connecting those points and approximating the 25-fathom line according to the following coordinates:

- (a) Northeast Corner : Tatoosh Island
- (b) Northwest Corner: 48°19.50' N. Lat. 124°50.45' W. Lon.
- (c) Southwest Corner: 48°02.15' N. Lat. 124°50.45' W. Lon.
- (d) Southeast Corner: 48°02.15' N. Lat. 124°41.00' W. Lon.

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

REPEALERS

The following sections of the Washington Administrative Code are repealed effective 8:00 a.m. February 11, 2019:

WAC 220-340-42000L Commercial crab fishery—Unlawful acts. (19-06)

WAC 220-340-45000J Commercial crab fishery—Seasons and areas—Coastal. (19-06)

