



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 19, 2023
TIME: 8:22 AM

WSR 23-04-007

Agency: Department of Fish and Wildlife (Order 23-06)

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: Amends Coastal commercial crab rules

Citation of rules affected by this order:

New:
 Repealed:
 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: The season opening dates are based on an agreed to opening of February 1 through the Pacific States Marine Fisheries Commission, Tri-State Dungeness crab Committee or are based on State-Tribal harvest management plans. Fair-start provisions further delay participation by vessels that have participated in areas on the West Coast that opened earlier and provide for a non-competitive opening for vessels that fish in areas where the season opening was delayed. Pot limits will reduce the crowding effect in this restricted area and language improves enforcement of pot limits. 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.

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____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 1

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 19, 2023	Signature: 
Name: Amy Windrope for Kelly Susewind	
Title: Director	

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-420, 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 March 13, 2023 and;
 - (b) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel-hold inspection certificates dated from January 31, 2023 to February 4, 2023, 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. February 3, 2023 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 360-580-6200, 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.
 - (c) Vessels that participate in the Dungeness crab fishery south of Cape Falcon (45°46.00 N. Lat.) may not deliver crab north of the Columbia River except into the ports of Ilwaco and Chinook until February 1, 2023. Such vessels must adhere to the Oregon Department of Fish and Wildlife closed area transit allowance requirements.

- (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.

- (5) 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.

- (6) 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 220-52-450, 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., January 29, 2023.
 - (c) It is permissible to pull crab gear beginning at 9:00 a.m., February 1, 2023.
 - (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:
 - i. The waters between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 a.m. February 16, 2023; and
 - ii. The waters between Oysterville (46°33.00) and the U.S./Canada border until 8:00 a.m. March 13, 2023.
- (2) Open area: The area from Klipsan Beach (46°28.00) to U.S./Canada border and Grays Harbor.
 - (a) It is permissible to set crab gear beginning at 8:00 a.m., February 3, 2023.
 - (b) It is permissible to pull crab gear beginning at 9:00 a.m., February 6, 2023.
- (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 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.
- (4) 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.
- (5) 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.
- (6) The Makah special management area (SMA) is closed to fishing until further notice. 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.

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