RULE-MAKING ORDER

CR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:
Emergency Rules 09-222
☐ Immediately upon filing.
☒ Later (specify) 8:00 a.m. October 1, 2009

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes ☒ No If Yes, explain:

Purpose: Commercial fishing rules

Citation of existing rules affected by this order:
Repealed:
Amended: WAC 220-52-040, WAC 220-52-046, WAC 220-69-240
Suspended:

Statutory authority for adoption: RCW 77.12.047, RCW 77.04.020 and RCW 77.70.430

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 years 2009, 2010, or 2011, 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: The provisions of this rule are in conformity with agreed plans with applicable tribes, which have been entered as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives. The State may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. There is insufficient time to adopt permanent rules.

Date adopted: September 22, 2009

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE
Lori Preuss

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 22, 2009
TIME: 10:16 AM

WSR 09-19-114

(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 3 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	_____

N E W S E C T I O N

WAC 220-52-04000J Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.

Notwithstanding the provisions of WAC 220-52-040:

(1) Dungeness crab pots may be deployed between 8:00 a.m. October 1, 2009, and 7:59 a.m. October 3, 2009 in Puget Sound waters from a vessel not designated on a person's Puget Sound crab license, provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and provided prior notice has been given as indicated below.

(2) The license owner must leave a telephone message at the Mill Creek Regional office, (425) 775-1311 ext. 112 with the following information:

a) Name and license number of license owner.

b) Name of designated primary operator if different from license owner.

c) Name of alternate operator if used to deploy pots from a non-designated vessel.

d) Buoy brand number and number of pots to be deployed from a non-designated vessel.

e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

(3) Additional area gear limits**.** The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel, and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits:

(a) No commercial gear is allowed in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123° 7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(4) Effective 8:00 a.m. October 1, 2009 until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license, per buoy tag number, in Crab Management Region 1 (which includes Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B), and Crab Management Region 2 East (which includes Marine Fish Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E).

The remaining buoy tags per license per region must be onboard the designated vessel and available for inspection in Crab Management Areas 1 and 2E.

N E W S E C T I O N

WAC 220-52-04600J Puget Sound Crab Fishery--Seasons and Areas.

Notwithstanding the provisions of WAC 220-52-046, effective 8:00 a.m. October 1, 2009, until further notice:

(1) It is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Port Gardner: That portion of Marine Fish/Shellfish Catch Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo. projected to the green #3 buoy at the mouth of the Snohomish River, and west of a line projected from that #3 buoy southward to the oil boom pier on the shoreline.

(b) Possession Point to Glendale: That portion of Marine Fish/Shellfish Catch Area 26A east of a line that extends true north from the green #1 buoy at Possession Point to Possession Point, and west of a line from the green #1 buoy at Possession Point extending northward along the 200-foot depth contour to the Glendale dock.

(c) Langley: That portion of Marine Fish/Shellfish Catch Area 24C shoreward of the 400-foot depth contour within an area described by two lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W).

(f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cap Sante Marina to the northern end of the eastern most oil dock.

(g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(2) The following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish/Shellfish Catch Area 25A west of the 123° 7.0’ longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish/Shellfish Catch Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of a line projected due north from the most westerly tip of Skagit Island and extending south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

(3) Effective 8:00 p.m. October 10, 2009, until 8:00 a.m. October 21, 2009, all Crab Management Regions will be closed to commercial crab fishing.

N E W S E C T I O N

WAC 220-69-24000R Duties of commercial purchasers and receivers.
Notwithstanding the provisions of WAC 220-69-240, effective October 1, 2009, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab taken by non-treaty fishers from Puget Sound, to fail to report to the department the previous day's purchases by 10:00 a.m. the following business day. Reports must be made by fax to (425) 338-1066 or by email at crabreport@dfw.wa.gov, and must specify the dealer name, dealer phone number, date of delivery of crab to the original receiver, and the total number of pounds of crab caught by non-treaty fishers, by Crab Management Region or by Marine Fish-Shellfish Management and Catch Reporting Area.