



# 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 10-312**

- Immediately upon filing.
- Later (specify) 8:00 a.m. December 8, 2010

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** Amend commercial fishing rules

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

Repealed: WAC 220-52-04000X, WAC 220-52-04600Z  
 Amended: WAC 220-52-040, WAC 220-52-046  
 Suspended:

**Statutory authority for adoption:** RCW 77.12.047 and RCW 77.04.020

**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: Pot limits for selected regions control harvest rates to achieve seasonal objectives and maintain state-tribal sharing agreements. Returning to a 50-pot limit in Region 2 East is the result of receiving final recreational crab harvest estimates that reduced the state commercial share in this region. The area closure in Catch Area 26A West complies with state-tribal agreements to close this zone to avoid handling mortality of soft shell crab. There is insufficient time to adopt permanent rules.

**Date adopted:** December 7, 2010

**NAME (TYPE OR PRINT)**

Philip Anderson

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 07, 2010**

**TIME: 9:52 AM**

**WSR 11-01-046**

**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>2</u>	Amended	_____	Repealed	<u>2</u>
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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 220-52-04000A Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.**

Notwithstanding the provisions of WAC 220-52-040:

- 1) Effective immediately 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 2 West (which includes Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D, and 26A-W). The remaining 50 buoy tags per license per region must be onboard the designated vessel and available for inspection in Crab Management Region 2 West.
- 2) Effective 8:00 a.m. December 8, 2010, 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 2 East (which includes Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E). The remaining 50 buoy tags per license per region must be onboard the designated vessel and available for inspection in Crab Management Regions 1 and 2 East.

NEW SECTION

**WAC 220-52-04600B Puget Sound crab fishery--Seasons and areas.**

Notwithstanding the provisions of WAC 220-52-046:

- (1) Effective immediately until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:
  - (a) Port Gardner: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A west of a line that extends from the spiral staircase at Howarth Park due north to the south end of Gedney Island and intersecting 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.
  - (b) Possession Point to Glendale: That portion of Marine Fish-Shellfish Management and Catch Reporting 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) Langlely: That portion of Marine Fish-Shellfish Management and Catch Reporting 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 Langlely.
  - (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 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.
  - (f) 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) Effective 6:00 p.m. December 31, 2010, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in Port Gardner: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A west of a line that extends from the spiral staircase at Howarth Park due north to the south end of Gedney Island and intersecting 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.
- (3) Effective immediately until further notice, the following areas are closed to commercial crab fishing:
  - (a) 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.
  - (b) That portion of Marine Fish-Shellfish Management and Catch Reporting 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.
- (4) Effective 6:00 p.m. December 31, 2010, until further notice, it is unlawful to fish for Dungeness Crab for commercial purposes in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within the area east of a line from the spiral staircase at Howarth Park due north to the south end of Gedney Island and that portion of 24B east of a line from the north end of Gedney Island to Camano Head and south of a line drawn from Camano Head to Hermosa Point (north end of Tulalip Bay).

## REPEALERS

The following sections of the Washington Administrative code are repealed, effective 8:00 a.m. December 8, 2010:

WAC 220-52-04000X Commercial crab fishery – Lawful and unlawful gear, methods, and other unlawful acts. (10-304)

WAC 220-52-04600Z Puget Sound crab fishery – Seasons and areas. (10-296)

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### EMERGENCY RULE ONLY

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( ) 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 finding: Pot limits for selected regions control harvest rates to achieve seasonal objectives and maintain state-tribal sharing agreements. Returning to a 50 pot limit in Region 2 East is the result of receiving final recreational crab harvest estimates that reduced the state commercial share in this region. The area closure in Catch Area 26A West complies with state-tribal agreements to close this zone to avoid handling mortality of soft shelled crab. There is insufficient time to adopt permanent rules. **(10-312, 12/7/2010)**

