



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 15-37

- Immediately upon filing.
- Later (specify) 8:00 a.m. March 8, 2015

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

- Yes
 - No
- If Yes, explain:

Purpose: Amend Puget Sound commercial crab fishing rules

Citation of existing rules affected by this order:

Repealed: WAC 220-52-04000V, WAC 220-52-04000A, WAC 220-52-04600H
 Amended: WAC 220-52-040, WAC 220-52-046
 Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020 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.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, 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: This emergency rule continues the closure of the commercial crab harvest in Region 2 East of Puget Sound as the commercial allotment in Region 2 East has been reached. This emergency rule closes the commercial crab fishery in Region 3-2. The State will have reached the allocation in Region 3-2 on the date specified in the rule. This emergency rule re-opens the commercial crab fishery in Region 2 West. The State has agreed to "fish to equity" in Region 2 West in order to reach a 50/50 share of the allocation. These provisions are in conformity with agreed management plans with applicable tribes, entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable Treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

Date adopted: March 6, 2015

NAME (TYPE OR PRINT)

J W Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: March 06, 2015

TIME: 3:23 PM

WSR 15-07-009

**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	_____
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The number of sections adopted in the agency's own initiative:

New	<u>2</u>	Amended	_____	Repealed	<u>3</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:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

NEW SECTION

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

- (1) Notwithstanding the provisions of WAC 220-52-040, effective 8:00 a.m. March 8, 2015, until further notice:
- (a) It is unlawful for any person to fish for crabs for commercial purposes with more than 30 pots per license per buoy tag number in Crab Management Region 1. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B.
 - (b) It is unlawful for any person to fish for crabs for commercial purposes with more than 30 pots per license per buoy tag number in Crab Management Region 2 West. This region includes Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and 26A West.
 - (c) The remaining buoy tags per license per region over the pot limits for the area fished must be onboard the designated vessel and available for inspection upon request.
- (2) Notwithstanding the provisions of WAC 220-52-040, WAC 220-52-043 and WAC 220-52-046, effective immediately, until further notice: It is unlawful to retain any salmon, food fish, or shellfish, except octopus and Tanner crabs (*Chionoecetes spp.*), taken incidental to any commercial crab fishing.
- (a) Tanner crabs may only be retained in Crab Region 1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B) and Crab Region 3-1 (defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A and 23B).
 - (b) It is unlawful to retain Tanner crabs other than males with a minimum width of 4.5 inches across the widest point in the carapace.

NEW SECTION

WAC 220-52-04600I Puget Sound crab fishery--Seasons and Areas.

Notwithstanding the provisions of WAC 220-52-046:

- (1) Effective 8:00 a.m. March 8, 2015, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:
- (a) 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.
 - (b) 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.
 - (c) 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 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 true 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.
 - (d) All of Crab Management Region 2 East. Region 2 East includes Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.
- (3) Effective 6:30 p.m. March 8, 2015, Crab Management Region 3-2 is closed. Region 3-2 includes all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23D, 25A and 25E.

REPEALERS

The following sections of the Washington Administrative code are repealed effective 8:00 a.m. March 8, 2015:

WAC 220-52-04000V Commercial crab fishery--Lawful and unlawful gear, methods, and other unlawful acts (14-350)

WAC 220-52-04000A Commercial crab fishery-- unlawful acts (15-15)

WAC 220-52-04600H Puget Sound crab fishery--Seasons and Areas (14-350)

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (x) 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, 2011, or 2012, 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: This emergency rule continues the closure of the commercial crab harvest in Region 2 East of Puget Sound as the commercial allotment in Region 2 East has been reached. This emergency rule closes the commercial crab fishery in Region 3-2. The State will have reached the allocation in Region 3-2 on the date specified in the rule. This emergency rule re-opens the commercial crab fishery in Region 2 West. The State has agreed to “fish to equity” in Region 2 West in order to reach a 50/50 share of the allocation. These provisions are in conformity with agreed management plans with applicable tribes, entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable Treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

(15-37, 3/6/2015)

