

**Concise Explanatory Statement (CES)
Amending Coastal Dungeness Crab Rules**

Rules amended as part of this rule making:

WAC 220-340-430 Commercial crab fishery – Buoy tag, pot tag, and buoy requirements
WAC 220-340-435 Commercial crab fishery – Shellfish pot requirements.
WAC 220-340-480 Commercial crab fishery – Gear limits – Coastal.

A. Reasons for adopting the rules:

The coastal Dungeness crab fishery has had interactions with gray whales and humpback whales, which have increased in recent years, and two of the ESA-listed distinct population segments of humpback whales frequent the Washington coast in areas that overlap with the crab fishery. Changes to coastal Dungeness crab regulations are needed to reduce the risk of whale entanglements in the coastal crab fishery.

B. Difference between the text of the proposed rules and the text of the rules as adopted:

WDFW staff requested, and the Commission approved, three revisions to the proposed rule change language in WAC 220-340-430. Those changes will delay implementation of the line marking requirement until December 1, 2020, reduce the line marking requirement from 18 to 12 inches, and insert the word “reasonably” to the language that describes the requirement to use only the amount of line necessary. Changes are shown in red below:

Proposed Revisions to WAC 220-340-430

... (6) Coastal commercial crab fishery line requirements.

- (a) All crab posts used in the coastal Dungeness crab fishery shall be set to use only the amount of line **reasonably** necessary to compensate for tides, currents, and weather.

- (b) (i) **Beginning December 1, 2020, it ~~is~~** is unlawful for a coastal Dungeness crab fishery license holder to use line that connects the main buoy to the crab pot that is not marked sufficiently to identify it as gear used in the Washington coastal Dungeness crab fishery.

- (ii) Each shellfish pot used in the Washington coastal commercial Dungeness crab fishery must be rigged with line that is marked with **12** inches of red, no more than one fathom from the main buoy and no more than one fathom from the pot....

C. Summary of comments and WDFW response and consideration for the comments:

WDFW received public comment on the proposed rule changes at the October 2019 Commission meeting, at a public hearing on November 6, 2019 and by e-mail. There was general support for implementing a regulation that requires that only the amount of line necessary to compensate for tides, currents, and weather. Many of the public comments supported a pot limit reduction although some comments were opposed to a permanent

reduction in the number of pots used from May through the end of the season. There was strong support for a summer buoy tag requirement. Comments were received that there would be adverse economic impacts from the pot limit reduction.

WDFW staff explored revenue data from commercial Dungeness crab landings to determine if the proposed rule changes, including the reduced pot limit would result in a more-than-minor cost to businesses as described in RCW 19.85.020(2). Only license owners that chose to fish from May through September 15th would incur the new cost of purchasing summer buoy tags. Historical data shows that participation in the Dungeness crab fishery drops off beginning in April as the majority of the crab resource has been harvested and participants move on to other fisheries that contribute to their business portfolio. Initial estimates based on recent year's ex-vessel revenues suggest that neither of these proposed changes alone would reach the minor cost threshold. There could be costs to fishermen such as, costs from taking more trips or fishing a broader spatial area in response to fishing with fewer pots that cannot be accounted for directly from fish ticket data.

Additional comments were focused on the line marking requirement and included concern for an 18-inch line mark and strong support for reducing the mark to 12- inches. There was significant input relative to the timing of the implementation of the line marking requirement and a general desire for more discussion about line marking configurations before finalizing. As described above, the comments on the line marking requirements were compelling enough to propose changes to the proposed rules as originally drafted to address the specific comments. Changes to the line marking regulatory language include a request from the Commission to insert the word "reasonably" in the section describing the need to adjust the amount of line necessary to compensate for ocean conditions.