**Concise Explanatory Statement (CES)**

**Amending Coastal Dungeness Crab Rules**

**Rules amended as part of this rule making:**

WAC 220-352-035 Requirement to prepare fish receiving ticket forms completely and accurately – Determining the appropriate form.

WAC 220-352-305 Coastal Dungeness crab – Additional reporting requirements.

WAC 220-352-060 Completion, submission, distribution, and retention copies of nontreaty fish receiving tickets.

WAC 220-352-140 Signatures – Fish receiving tickets.

WAC 220-340-430 Commercial crab fishery – Gear requirements.

WAC 220-340-480 Commercial crab fishery – Gear limits – Coastal.

WAC 220-352-020 General gear rules – Commercial fishery.

WAC 220-340-420 Commercial crab fishery – Unlawful acts.

WAC 220-340-490 Commercial crab fishery – Coastal gear recovery permits.

WAC 220-340-450 Commercial crab fishery – Seasons and areas - Coastal

1. **Reasons for adopting the rules:**

Changes to coastal commercial Dungeness crab regulations support measures already implemented and are directed at reducing the risk of marine life entanglements in coastal Dungeness crab gear pursuant to federal Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) requirements, including requirements for reporting landings using electronic fish tickets and minor changes that clarify existing rules.

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

WDFW staff requested, and the Commission approved additional changes to WAC 220-352-060 and WAC 220-340-420 that were not included in the originally adopted version. The additional changes were recommended by the WDFW Enforcement Program to clarify and improve the regulatory language while remaining within the scope of the originally proposed changes.

Specifically, additional changes to WAC 220-350-060 clarify that fish receiving tickets must be made out at the time of delivery for both fish and shellfish and that an electronic copy of completed fish tickets must be available upon request for three years to the department which includes WDFW officers. The originally adopted changes only referenced that fish tickets must be made out at the time that fish are delivered but did not distinctly state that fish tickets must also be made out at the time when shellfish are delivered. This clarification is needed to reduce confusion for fish dealers because these proposed changes are specific to fish ticket requirements for shellfish deliveries. In addition, the originally adopted changes only said that an electronic copy of signed and completed fish receiving tickets be available to the department for a minimum of three years. Changes proposed here add that signed and completed fish receiving tickets to not only the department but to WDFW officers upon request. This clarification will improve the enforceability of the regulation by being clear that fish tickets must be made available if requested by WDFW officers for a minimum of three years.

Changes to WAC 220-340-420 remove the reference to ring nets when describing that an area must be open to commercial crabbing to lawfully set, maintain, or operate baited or unbaited shellfish pots. The proposed change to remove the reference to ring nets from this section is needed because ring nets are not a lawful gear type for the commercial crab fishery. The change provides regulatory consistency with lawful gear and improves the clarity of the regulatory language.

**Proposed additional revisions (shown in red):**

**WAC 220-352-060 Completion, submission, distribution, and retention copies of nontreaty fish receiving tickets.**

1. Original receivers must complete state of Washington nontreaty fish receiving tickets by recording the delivery amount using the appropriate weight or quantity measure for all fish or shellfish at the conclusion of the offload and prior to the fish being processed or transported away from the delivery site.
2. Fish receiving tickets paper forms must be made out in quadruplicate (four copies) at the time of delivery of fish or shellfish.

(4) Original receivers who submit fish receiving tickets using an electronic form must print and retain a copy of the completed electronic fish receiving ticket for three years unless:

(a) The fish receiving ticket is signed electronically under WAC 220-352-140 (4)(c) and an electronic copy of the signed and completed fish receiving ticket is available to the department including WDFW officers upon request for a minimum of three years; or

**WAC 220-340-420 Commercial crab fishery – Unlawful acts.**

(5) **Area must be open to commercial crabbing.** It is unlawful for any person to set, maintain, or operate any baited or unbaited shellfish pots ~~or ring nets~~ for taking crab for commercial purposes in any area or time that is not open for commercial crabbing by rule of the department, except when acting lawfully under the authority of a valid gear recovery permit as provided in WAC 220-340-450.

1. **Summary of comments and WDFW response and consideration for the comments:**

WDFW received public comment that indicated general support for electronic fish ticket reporting that allows for real time management for both coastal and Puget Sound shellfish fisheries. There were some questions posed about the use of the mobile application that will be available for submitting electronic fish tickets in situations where there is poor cellular reception and questions about record keeping compared to paper fish tickets. At the request of WDFW staff, the Fish and Wildlife Commission delayed implementation of proposed regulatory changes until January 1, 2022, to give WDFW staff additional time to work with industry members during the transition from paper to electronic fish ticket reporting.

Changes to coastal Dungeness crab regulations, including mandatory electronic fish ticket reporting, were developed with input from the Coastal Dungeness Crab Advisory Board and a larger group of industry members, stakeholders, and coastal Dungeness crab license holders. WDFW staff have met with industry and coastal crab advisors multiple times each year to discuss all proposed rule changes. Input gathered from industry and coastal crab advisors over the past approximately nine months relative to the changes described here has been generally supportive.

In Puget Sound, WDFW and commercial industry representatives have discussed long-standing compliance issues with quick reporting and identified the need for electronic catch reporting to address those issues. In general, Puget Sound commercial shellfish harvesters support moving to electronic catch reporting. To address outstanding questions and concerns, WDFW staff have engaged with harvesters to improve development of the mobile application. Additional outreach and training sessions with industry representatives are planned in fall 2021.

Finally, the proposed changes incorporate recommendations from the Enforcement Program which clarify and improve the regulatory language while remaining within the scope of the originally proposed changes.