



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 06, 2021

TIME: 8:05 AM

WSR 21-20-131

Agency: Department of Fish and Wildlife (Order 21-223)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) October 7, 2021

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

- Yes No If Yes, explain:

Purpose: This regulation opens commercial harvest of Dungeness crab in Crab Management Regions 1, 2 East, 2 West, 3-1, 3-2, and 3-3 effective October 7, 2021 at 8:00 a.m. until further notice. The regulation includes additional harvest tracking and reporting requirements.

Citation of rules affected by this order:

New:

Repealed: WAC 220-340-45500Y

Amended: WAC 220-340-110; WAC 220-340-420; WAC 220-340-455; WAC 220-352-340

Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.12.045 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.

Reasons for this finding: The provisions of this emergency rule:

WAC 220-320-11000A:

- 1) Defines new Crab Management Region 3-4 and changes the boundaries of Crab Management Region 3-3 to accommodate boundaries agreed to in the Region 3 2021-2022 crab management plan.

WAC 220-340-42000Q:

- 1) Opens all areas with commercial harvest opportunity in Puget Sound to barging of pots effective October 5th through October 7th. Describes Puget Sound pot barging reporting requirements.
- 2) Requires all crab harvested not delivered to an original receiver to be landed or recorded on a shellfish transportation ticket within 36 hours of harvest. Requires separate transportation tickets to be completed for each days harvest not delivered to an original receiver that is stored off of the fishing vessel. Implements a 10-day restriction on the length of time that crab may be stored off vessel before being delivered to an original receiver.
- 3) Implements a labeling requirement for crab that are stored off vessel.
- 4) Implements a labeling requirement for crab that are stored off vessel and not delivered to an original receiver within 36 hours.

WAC 220-340-45500Z:

- 1) Defines subareas east and west of MSFS catch area 23C to align with agreed to boundaries within the Region 3 2021-2022 crab management plan.
- 2) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2 East, 2 West, 3-1, 3-2 and 3-3 on October 7, 2021 at 8:00 a.m.. Describes hard closure dates by Crab Management Region.

- 3) Allows deployment of up to 35 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 1 and 2-East.
- 4) Allows deployment of up to 50 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 2-West and 3-2.
- 5) Allows deployment of up to 40 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-1.
- 6) Allows deployment of up to 60 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-3.
- 7) Requires undeployed buoy tags to be retained for inspection.
- 8) Closes of Port Angeles Harbor to commercial crab harvest due to public health decrees.
- 9) Closes commercial crab harvest in Crab Management Region 3-4 until further notice, and
- 10) Closes areas to State commercial that have been agreed to in Regional management plans.
- 11) Repeals areas where recreational and tribal harvest has been allowed that State commercial harvest has been historically limited.
- 12) Repeals areas where recreational and tribal harvest has been allowed that State commercial harvest has been historically closed.

WAC 220-352-34000I:

- 1) Clarifies the Puget Sound commercial dealer quick reporting requirements.
- 2) Implements a Puget Sound “hung crab” harvest report requirement for crab not delivered to an original receiver with 36 hours of harvest.
- 3) Implements a Puget Sound “hung crab” sales report requirement for “hung crab” that have been reported but not landed.
- 4) Implements a registration requirement to for commercial license holders to notify the department which Crab Management Area a license will be fishing in.

There is sufficient allocation available in Regions 1, 2-West, 2-East, 3-1, 3-2, and 3-3 to accommodate this opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are 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. Further adjustment of season structure may be made pending updated harvest data.

There is insufficient time to adopt permanent rules.

**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 on the agency’s own initiative:

New	4	Amended	_____	Repealed	<u>1</u>
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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 _____

Date Adopted: October 6, 2021

Name: Amy Windrope for Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-320-11000A – Puget sound crab management regions.

Notwithstanding the provisions of WAC 220-320-110:

- (1) Crab Management Region 3, subarea 3-3 is defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23C-East.
- (2) Crab Management Region 3, subarea 3-4 is defined as all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23C-West and 29.

NEW SECTION

WAC 220-340-42000Q Commercial crab fishery—unlawful acts.

Notwithstanding the provisions of WAC 220-340-420:

- (1) Crab Management Region 1 includes Marine Fish-Shellfish (MFSF) Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B. Crab Management Region 2E includes MFSF Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A East. Crab Management Region 2West includes MFSF Catch Reporting Areas 25B, 25D, and 26A West. Crab Management Region 3-1 includes MFSF Catch Reporting Areas 23A and 23B. Crab Management Region 3-2 includes MFSF Catch Reporting Areas 25A, 25E, and 23D. Crab Management Region 3-3 includes MFSF Catch Reporting Areas 23C East, and Crab Management Region 3-4 consists of 23C West and 29.
 - (a) Effective 8:00 a.m. October 7, 2021 until 7:59 a.m. October 9, 2021 it is permissible to deploy Dungeness crab pots for commercial purposes in Crab Management Regions 1, 2 East, 2 West, 3-1, 3-2, and 3-3 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 prior notice has been given as provided below. Crab pots may only be deployed during daylight hours.
 - (b) Puget Sound commercial crab license holders that intend to barge must send an email to crab.report@dfw.wa.gov, detailing the following information:
 - (i) Name and license number of licensed owner.
 - (ii) Name of designated primary operator if different from licensed owner.
 - (iii) Name of alternate operator if used to deploy pots from a non-designated vessel.
 - (iv) Buoy brand number and number of pots to be deployed from a non-designated vessel.
 - (v) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.
 - (vi) Region or Set Location

- (2) Effective 8:00 a.m. October 7, 2021, until further notice, all crab removed from a vessel licensed in Puget Sound that are not delivered to an original receiver within 36 hours must be recorded on a commercial fish and shellfish transportation ticket. Separate commercial fish and shellfish transportation tickets must be filled out for each day's harvest stored this way. It is illegal to store crab for more than 10 days in this manner.
- (3) Effective 8:00 a.m. October 7, 2021, until further notice, all crab that have been removed from a vessel and must be stored in containers labeled with the following:
 - (a) date of harvest,
 - (b) an estimate of pounds of crab contained,
 - (c) either the Marine Fish-Shellfish (MFSF) Catch Reporting Area or the Crab Management Region the catch originated from.
- (4) Effective 8:00 a.m. October 7, 2021, until further notice, all crab that have been removed from a vessel and are not delivered to an original receiver within 36 hours must be stored in containers labeled with the following:
 - (a) date of harvest,
 - (b) an estimate of pounds of crab contained,
 - (c) either the Marine Fish-Shellfish (MFSF) Catch Reporting Area or the Crab Management Region the catch originated from, and
 - (d) Commercial fish and shellfish transportation ticket number.

NEW SECTION

WAC 220-340-45500Z Commercial crab fishery--Seasons and areas--Puget Sound.

Notwithstanding the provisions of WAC 220-340-450:

- (1) For the purposes of crab harvest allocation, fishing season, and catch reporting, the following Marine Fish-Shellfish Catch Reporting Areas are modified as follows:
 - (a) Catch Area 23C East (23C-E) includes those waters of Puget Sound westerly of a line due north from the Ediz Hook light to the international boundary; and easterly of a line projected due north from Low Point.
 - (b) Catch Area 23C West (23C-W) includes those waters of Puget Sound westerly of a line due north from Low Point to the international boundary; and easterly of a line projected due north from the mouth of the Sekiu River.
- (2) Effective October 7, 2021 at 8:00 a.m. until the date indicated below or until further notice it is permissible to harvest Dungeness crab for commercial purposes.
 - (a) Region 1:

- (i) Marine Fish-Shellfish Catch Areas 21A, 21B, and 22B close to commercial harvest on March 31, 2022 at 11:59 p.m.
 - (ii) Marine Fish-Shellfish Catch Areas 22A, 20A, and 20 B close to commercial harvest on April 15, 2021 at 11:59 p.m.
 - (b) Region 2 East:
 - (i) The Everett Flats Area, defined as that portion of catch area 26AE east of a line from 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 on the Tulalip reservation, closes to commercial harvest on December 31, 2021 at 11:59 p.m.
 - (ii) Crab Management Region 2 East closes to commercial harvest on February 1, 2022 at 11:59 p.m.
 - (c) Region 2 West:
 - Crab Management Region 2-W closes to commercial harvest on February 15, 2022.
 - (d) Region 3:
 - (i) Crab Management Region 3-1 closes to commercial harvest on March 31, 2022.
 - (ii) Crab Management Region 3-2 closes to commercial harvest on March 31, 2022.
 - (iii) Crab Management Region 3-3 closes to commercial harvest on April 15, 2022.
- (3) Effective 8:00 a.m. October 7, 2021, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 35 pots per license per buoy tag number in Crab Management Regions 1 and 2E.
- (4) Effective 8:00 a.m. October 7, 2021, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Regions 2 West and 3-2 with the following exceptions:
 - (a) Region 2 West:
 - Commercial harvest is limited to 20 pots per license in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25D within a line projected from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, and thence following the shoreline to the point of origin until 11:59 p.m. December 31, 2021.
 - (b) Region 3-2:
 - (i) Commercial harvest is limited to 20 pots per license within the Sequim Bay Special Management Area which consists of all waters of Sequim Bay south of a line true west from Travis Spit to the Miller Peninsula until March 31, 2022.

- (ii) Commercial harvest is limited to 20 pots per license within the Discovery Bay Special Management Area defined as all waters of Discovery Bay south of a line from Diamond Point to Cape George until March 31, 2022
- (5) Effective 8:00 a.m. October 7, 2021, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 40 pots per license per buoy tag number in Crab Management Region 3-1.
- (6) Effective 8:00 a.m. October 7, 2021, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 60 pots per license per buoy tag number in Crab Management Region 3-3.
- (7) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.
- (8) Public Health Closures: effective 8:00 a.m. October 7, 2021, until further notice, the following areas are closed to commercial crab fishing:
 - 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.
- (9) Closure of areas with not enough commercial share remaining: effective 8:00 a.m. October 7, 2021, until further notice, the following areas are closed to commercial crab fishing: Crab Management Region 3-4.
- (10) Management Plan Tribal Exclusive Closures: effective 8:00 a.m. October 7, 2021, until further notice, the following areas are closed to commercial crab fishing:
 - (a) Region 2 East:
 - 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.
 - (b) Region 3-2:
 - Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A previously described as “west of a line from the new Dungeness Light to the abandoned dock at the Three Crabs Restaurant” now described as the Dungeness Bay Special Management Area which include all waters of Dungeness Bay west of the 123° 6.50’ Longitude line originating from the New Dungeness Light (48° 10.90’N, 123° 6.50’W).

- (11) Repealing Limited Commercial Areas: effective 8:00 a.m. October 7, 2021 until further notice it is permissible to harvest Dungeness crab for commercial purposes from the following areas:
- (a) Region 1:
 - (i) 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.
 - (ii) 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.
 - (iii) 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.
 - (b) Region 2 West:

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).
 - (c) Region 2 East:
 - (i) 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 Langley.
 - (ii) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A-E 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.
- (12) Repealing commercial exclusion areas: effective 8:00 a.m. October 7, 2021 it is permissible to harvest crab for commercial purposes from the following areas:
- (a) Region 1:
 - (i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Point Williams to Fish Point in waters shallower than 60 feet in depth.
 - (ii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.
 - (iii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line projected from the boat ramp at the

western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

- (iv) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A inside of Chuckanut Bay east of a line projected north from Governor's Point to the east side of Chuckanut Island, thence to Chuckanut Rock, thence to the most southerly tip of Clark's Point.
 - (v) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to its intersection with Shaw Island.
 - (vi) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.
 - (vii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected through Crab and Fortress Islands intersecting Lopez Island at either end.
 - (viii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected easterly from the northern end of the eastern most oil dock at March Point to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore and following the shoreline to the point of origin.
 - (ix) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B, which includes all waters of Prevost Harbor between Stuart Island and Satellite Island southwest of a line from Charles Point on Stuart Island to the northwest tip of Satellite Island and southwest of a line projected 120 degrees true from the southeast end of Satellite Island to Stuart Island.
 - (x) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in East Sound north of a line from the southern point of Judd Bay on the west to Giffin Rocks on the east.
- (b) Region 2 East:
- (i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A within a line projected from Rocky Point northeast to the red number 2 buoy north of Ustalady Point, thence to Brown Point on the northeast corner of Ustalady Bay.
 - (ii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24D south of a line from the point at the southern end of Honeymoon Bay (48°03.047'N, 122°32.306'W) to the point just north of Beverly Beach.
 - (iii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line projected from the outermost tip of the ferry dock at Mukilteo to the green #3 buoy at the mouth of the Snohomish River, and west of a line projected from the #3 buoy southward to the oil boom pier on the shoreline, also known as Port Gardner.

- (iv) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A in Cornet Bay south of a line projected true east and west from the northernmost tip of Ben Ure Island.
- (c) Region 3-2:
Those waters of Discovery Bay, Area 25E south of a line from Contractors Point to Tukey Point.

NEW SECTION

WAC 220-352-34000I Puget Sound crab--Additional reporting requirements.

Notwithstanding the provisions of WAC 220-352-340,

- (1) Effective 8:00 a.m., October 7, 2021, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab landed by WDFW licensed Puget Sound commercial crab harvesters to fail to report to the department the previous day's purchases by 10:00 a.m. the day following the purchase. Reports must be made by online at on the Puget Sound commercial crab reporting website, by fax to (360) 302-3031, or by e-mail at crab.report@dfw.wa.gov. Reports must include all of the following:
 - (a) dealer name,
 - (b) dealer license number,
 - (c) dealer phone number,
 - (d) date of delivery of crab to the original receiver, and
 - (e) the total number of pounds of crab caught by non-treaty fishers by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area.
- (2) Effective 8:00 a.m., October 7, 2021, until further notice, commercial harvesters of crab in Puget Sound must deliver all crab removed from their vessel to a licensed original receiver within 24 hours or submit a report of crab retained for delivery at a future date to the Department. Reports must be received within 36 hours following an offload. Reports must be made by online on the Puget Sound commercial crab reporting website or by e-mail at crab.report@dfw.wa.gov. Reports must contain all of the following:
 - (a) harvester name,
 - (b) WDFW issued vessel ID,
 - (c) Puget Sound commercial license number,
 - (d) date of harvest,
 - (e) an estimate of pounds of harvest retained by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area, and
 - (f) a commercial fish and shellfish transportation ticket number.

- (3) Effective 8:00 a.m., October 7, 2021, until further notice, commercial harvesters of crab in Puget Sound must report the delivery of all crab to an original receiver that were previously retained off-vessel by 10:00 a.m. the day following delivery to an original receiver. Reports must be made by online on the Puget Sound commercial crab reporting website, or by e-mail at crab.report@dfw.wa.gov. Reports must contain all of the following:
- (a) harvester name,
 - (b) WDFW issued vessel ID,
 - (c) Puget Sound commercial license number,
 - (d) date of sale,
 - (e) dealer name,
 - (f) commercial shellfish transportation ticket number(s) delivered, and
 - (g) fish receiving ticket number(s) corresponding to landing date of delivery.
- (4) Effective immediately until further notice, Puget Sound commercial crab license holders, or their designated alternate operators, must register which Crab Management Region that gear will be deployed in for each license they hold prior to the opening date. Registrations must be updated when gear moves between areas. Registrations can be made by registering on the WDFW Puget Sound commercial crabbing webpage or sending an email to crab.report@dfw.wa.gov, detailing the following information:
- (a) Vessel Operator Name
 - (b) Vessel Name and Vessel Registration Number
 - (c) Permit Number(s) to be Fished
 - (d) Crab Management Region to be fished
 - (e) Gear Deployment Date

REPEALER

The following section of Washington Administrative Code is repealed, effective October 7, 2021:

WAC 220-340-45500Y Commercial crab fishery—Seasons and areas—Puget Sound. (21-216)