



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 15, 2021

TIME: 4:32 PM

WSR 21-21-063

Agency: Department of Fish and Wildlife (Order 21-231)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

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

- Yes
 - No
- If Yes, explain:

Purpose: The purpose of this emergency rule is to amend commercial crab rules in Puget Sound as follows:

WAC 220-340-42000R

- 1) 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 day's harvest not delivered to an original receiver that is stored off 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.
- 2) Implements a labeling requirement for crab that are stored off vessel.
- 3) Implements a labeling requirement for crab that are stored off vessel and not delivered to an original receiver within 36 hours.

WAC 220-340-45500A

- 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 effective immediately. Describes hard closure dates by Crab Management Region. Closes Crab Management Region 2 East effective October 17, 2021 at 11:59 p.m.
- 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) Closes commercial deployment of pots in 2E effective October 18, 2021 at 12:00 a.m.
- 5) 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.
- 6) Allows deployment of up to 40 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-1.
- 7) Allows deployment of up to 60 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-3.
- 8) Requires undeployed buoy tags to be retained for inspection.
- 9) Closes Port Angeles Harbor to commercial crab harvest due to public health decrees.
- 10) Closes commercial crab harvest in Crab Management Region 3-4 until further notice, and
- 11) Closes areas to State commercial that have been agreed to in Regional management plans.
- 12) Repeals areas where recreational and tribal harvest has been allowed that State commercial harvest has been historically limited. Closes areas in Crab Management Region 2 East effective October 17, 2021 at 11:59 p.m.
- 13) Repeals areas where recreational and tribal harvest has been allowed that State commercial harvest has been historically closed. Closes areas in Crab Management Region 2 East effective October 17, 2021 at 11:59 p.m.

WAC 220-352-34000J

- 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.

Citation of rules affected by this order:

New:

Repealed: WAC 220-340-42000Q; WAC 220-340-45500Z; WAC 220-352-34000I

Amended: 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: There is sufficient allocation available in Regions 1, 2-West, 2-East, 3-1, 3-2, and 3-3 to accommodate this opening. Commercial crab harvest in Crab Management Region 2E will close on Sunday, October 17, 2021 at 11:59 p.m. when the state share is projected to be harvested. These provisions are in conformity with agreed regional management plans with applicable tribes or in accordance with procedures proscribed in the draft Shellfish Implementation Plan when no annual regional management plan agreement has been reached. 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.

**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 | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted on the agency's own initiative:

| | | | | | |
|-----|---|---------|-----|----------|----------|
| New | 3 | Amended | ___ | Repealed | <u>3</u> |
|-----|---|---------|-----|----------|----------|

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 15, 2021

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-340-42000R 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.
- (2) Effective immediately, 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 immediately, until further notice, all crab that have been removed from a vessel 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 immediately, 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 220-340-45500A Commercial crab fishery--Seasons and areas--Puget Sound.

Notwithstanding the provisions of WAC 220-340-455:

- (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) It is permissible to harvest Dungeness crab for commercial purposes from the following areas as listed:
- (a) Region 1:
 - (i) Marine Fish-Shellfish Catch Areas 21A, 21B, and 22B; effective immediately through March 31, 2022 at 11:59 p.m.
 - (ii) Marine Fish-Shellfish Catch Areas 22A, 20A, and 20 B; effective immediately through April 15, 2021 at 11:59 p.m.
 - (b) Region 2 East:

Crab Management Region 2 East; effective immediately through October 17, 2021 at 11:59 p.m.
 - (c) Region 2 West:

Crab Management Region 2-W; effective immediately through February 15, 2022.
 - (d) Region 3:
 - (i) Crab Management Region 3-1; effective immediately through March 31, 2022.
 - (ii) Crab Management Region 3-2; effective immediately through March 31, 2022.
 - (iii) Crab Management Region 3-3; effective immediately through April 15, 2022.
- (3) Effective immediately, 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 12:00 a.m. October 18, 2021, until further notice, it is unlawful to deploy any pots to harvest crabs for commercial purposes in Crab Management Region 2E.
- (5) Effective immediately, 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
- (6) Effective immediately, 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.
- (7) Effective immediately, 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.
- (8) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.
- (9) Public Health Closures: effective immediately, 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.
- (10) Closure of areas with insufficient commercial share remaining: effective immediately, until further notice, the following areas are closed to commercial crab fishing: Crab Management Region 3-4.
- (11) Management Plan Tribal Exclusive Closures: effective immediately, 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).

- (12) Limited Commercial Areas: It is permissible to harvest Dungeness crab for commercial purposes from the following areas as listed:
- (a) Region 1, effective immediately, until further notice:
 - (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, effective immediately, until further notice:

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, effective immediately through October 17, 2021 at 11:59 p.m.:
 - (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.
- (13) Commercial exclusion areas: It is permissible to harvest crab for commercial purposes from the following areas as listed:
- (a) Region 1, effective immediately, until further notice:

- (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, effective immediately through October 17, 2021 at 11:59 p.m.:
- (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, effective immediately, until further notice:
Those waters of Discovery Bay, Area 25E south of a line from Contractors Point to Tukey Point.

NEW SECTION

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

Notwithstanding the provisions of WAC 220-352-340,

- (1) Effective immediately, 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 immediately, until further notice, commercial harvesters of crab in Puget Sound must deliver all crab removed from their vessel to a licensed original receiver within 36 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 immediately, 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 sections of Washington Administrative Code are repealed, effective immediately:

WAC 220-340-42000Q Commercial crab fishery—unlawful acts. (21-223)

WAC 220-340-45500Z Commercial crab fishery—Seasons and areas—Puget Sound. (21-223)

WAC 220-352-34000I Puget Sound crab—Additional reporting requirements. (21-223)