



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: February 04, 2022

TIME: 1:52 PM

WSR 22-05-023

Agency: Department of Fish and Wildlife (Order 22-15)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) February 10, 2022

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

- Yes No If Yes, explain:

Purpose: Open commercial crab harvest in Region 1 on February 10, 2022 at 8:00 a.m. and Region 3-1 on February 12, 2022 at 8:00 a.m.

The provisions of this emergency rule:

WAC 220-340-42000B

- 1) Allows barging in Region 1 between February 10, 2022 and February 12, 2022 and implements a barging declaration.
- 2) Requires all crab harvested to be delivered to an original receiver 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.
- 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 220-340-45500H

- 1) Defines subareas east and west of Marine Fish Shellfish Catch Reporting 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 3-3 effective immediately. Opens Puget Sound commercial crab harvest in Crab Management Region 1 effective February 10, 2022 at 8:00 a.m. and Crab Management Region 3-1 effective February 12, 2022 at 8:00 a.m.. Describes hard closure dates by Crab Management Region. Maintains closure of Crab Management Regions 2 East, 2 West, 3-2, and 3-4.
- 3) Closes Port Angeles Harbor to commercial crab harvest due to public health decrees.
- 4) Repeals areas where recreational and tribal harvest has been allowed that State commercial harvest has been historically limited.

WAC 220-340-47000F

- 1) Allows deployment of up to 35 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 1 effective immediately until February 10, 2022 at 8:00 a.m..
- 2) Allows deployment of up to 25 pots per license for the commercial harvest of Dungeness crab in Crab Management Region 3-1 effective immediately until February 12, 2022 at 8:00 a.m..
- 3) Allows deployment of up to 60 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-3.
- 4) Requires undeployed buoy tags to be retained for inspection.

WAC 220-352-34000R

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

Citation of rules affected by this order:

New:

Repealed: WAC 220-340-42000A; WAC 220-340-45500G; WAC 220-340-47000E; WAC 220-352-34000Q

Amended: WAC 220-340-420; WAC 220-340-455; WAC 220-340-470; 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 3-3 to accommodate continued commercial harvest. There is sufficient allocation available in Crab Management Region 1 and 3-1 to allow for additional commercial harvest. These provisions are in conformity with agreed regional management plans with applicable tribes or in accordance with procedures proscribed in the 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. 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	4
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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 ___

Date Adopted: February 4, 2022

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-420:

- (1) Crab Management Region 1 includes Marine Fish-Shellfish Catch Reporting Areas (MFSFCRA) 20A, 20B, 21A, 21B, 22A, 22B. Crab Management Region 2E includes MFSFCRA 24A, 24B, 24C, 24D, and 26A East. Crab Management Region 2West includes MFSFCRA 25B, 25D, and 26A West. Crab Management Region 3-1 includes MFSFCRA 23A and 23B. Crab Management Region 3-2 includes MFSFCRA 25A, 25E, and 23D. Crab Management Region 3-3 includes MFSFCRA 23C East, and Crab Management Region 3-4 consists of 23C West and 29.
 - (a) Effective 8:00 a.m. February 10, 2022 until 7:59 a.m. February 12, 2022 it is permissible to deploy Dungeness crab pots for commercial purposes in Crab Management Region 1 from a vessel not designated on a 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 from one hour before sunrise to one hour after sunset.
 - (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 immediately, until further notice, all crab removed from a vessel licensed and fishing 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 retained in this manner. It is illegal to retain and store crab prior to delivery and completion of a fish receiving ticket for more than 10 days.
- (3) Effective immediately, until further notice, all crab retained and removed from a vessel licensed and fishing in Puget Sound must be stored in containers based on date retained and labeled with the following:

- (a) Date of harvest,
 - (b) An estimate of pounds of crab in each container, and
 - (c) Either the MFSFCRA or the Crab Management Region the catch originated from.
- (4) Effective immediately, until further notice, all crab retained and removed from a vessel licensed and fishing in Puget Sound that are not delivered to an original receiver within 36 hours must be stored in containers based on date retained and labeled with the following:
- (a) Date of harvest,
 - (b) An estimate of pounds of crab in each container,
 - (c) Either the MFSFCRA or the Crab Management Region the catch originated from, and
 - (d) Commercial fish and shellfish transportation ticket number.

NEW SECTION

WAC 220-340-45500H 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 (MFSFCRA) 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 currently permissible to harvest Dungeness crab for commercial purposes from the following areas, as listed:
- Crab Management Region 3-3; effective immediately until further notice.
- (3) Effective immediately, until further notice, the following areas are closed to commercial crab fishing: Crab Management Regions 1, 2E, 2W, 3-1, 3-2 and 3-4.

(4) Effective February 10, 2022, at 8:00 a.m. until further notice the following areas are open to commercial crab fishing: Crab Management Region 1.

(5) Effective February 12, 2022, at 8:00 a.m. until further notice the following areas are open to commercial crab fishing: Crab Management Region 3-1.

(6) 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.

(7) Limited Commercial Areas: It is permissible to harvest Dungeness crab for commercial purposes from the following areas as listed:

Region 1: Effective February 10, 2022, at 8:00 a.m. until further notice:

- (a) Those waters of MFSFCRA 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 MFSFCRA 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 MFSFCRA22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(8) Commercial exclusion areas: It is permissible to harvest crab for commercial purposes from the following areas as listed:

Region 1: Effective February 10, 2022, at 8:00 a.m. until further notice:

- (a) Those waters of MFSFCRA21B in Samish Bay south of a line from Point Williams to Fish Point in waters shallower than 60 feet in depth.
- (b) Those waters of MFSFCRA22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.
- (c) Those waters of MFSFCRA 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.

- (d) Those waters of MFSFCRA21A 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.
- (e) Those waters of MFSFCRA 22A in Blind Bay south of a line projected due west from Point Hudson to its intersection with Shaw Island.
- (f) Those waters of MFSFCRA22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.
- (g) Those waters of MFSFCRA22A in Mud Bay south of a line projected through Crab and Fortress Islands intersecting Lopez Island at either end.
- (h) Those waters of MFSFCRA 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.
- (i) That portion of MFSFCRA20B, 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.
- (j) Those waters of MFSFCRA22A in East Sound north of a line from the southern point of Judd Bay on the west to Giffin Rocks on the east.

NEW SECTION

WAC 220-340-47000F Commercial crab fishery—Gear limits—Puget Sound and Marine Fish-Shellfish Management and Catch Reporting Areas.

Notwithstanding the provisions of WAC 220-340-470:

- (1) Effective immediately, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 60 pots per license in Crab Management Region 3-3.
- (2) Effective February 10, 2022, at 8:00 a.m. until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 35 pots per license in Crab Management Region 1.
- (3) Effective February 12, 2022, at 8:00 a.m. until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 25 pots per in Crab Management Region 3-1.
- (4) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

NEW SECTION

WAC 220-352-34000R 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 online at 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 WDFW licensed commercial fishers by Crab Management Region or MFSFCRA.

- (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 MFSFCRA, 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 online at 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 or if licenses are not being fished. Registrations must be updated when gear moves between areas or fishing activity stops. 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) License Number(s) to be fished
- (d) Crab Management Region to be fished or an indication that licenses will remain unfished
- (e) Gear Deployment Date

REPEALERS

The following sections of the Washington Administrative Code are repealed, effective February 10, 2022:

WAC 220-340-42000A Commercial crab fishery—unlawful acts. (22-02)

WAC 220-340-45500G Commercial crab fishery—Seasons and areas—Puget Sound. (22-02)

WAC 220-340-47000E Commercial crab fishery—Gear requirements—Puget Sound. (22-02)

WAC 220-352-34000Q Puget Sound crab—Additional reporting requirements. (22-02)