



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: December 16, 2022

TIME: 3:03 PM

WSR 23-01-095

Agency: Department of Fish and Wildlife (Order 22-282)

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:

WAC 220-340-45500S:

- 1) Opens Puget Sound commercial crab harvest in Crab Management Region 2E on December 19, 2022, at 8:00 am.
- 2) Closes subregion 3-2 to commercial harvest effective December 20, 2022.
- 3) Implements hard closure dates that may close with 120 days.
- 4) Corrects the Bellingham Bay closure area.

WAC 220-340-42000M: Permits barging of pots from December 19, 2022 at 8:00 am through 7:59 am on December 21, 2022 in subregion 2E only.

WAC 220-340-47000P: Sets pot limits for all areas with commercial harvest opportunity in Puget Sound. Reduces the pot limit for all areas that are closed to "0".

Citation of rules affected by this order:

- New:
- Repealed: WAC 220-340-45500R; WAC 220-340-42000L; WAC 220-340-47000N
- Amended: WAC 220-340-455; WAC 220-340-420; WAC 220-340-470
- 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 and subregions 3-1, 3-3, and 3-4 to accommodate continued commercial harvest. This rule closes subregion 3-2 following the projected attainment of the state share on December 20, 2022. This rule also opens Region 2E on December 19, 2022, to make use of additional harvest opportunity following co-manager agreement to increase the quota. This rule also corrects a boundary of the Bellingham Bay closure area to conform with co-management agreement. 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. 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	3	Amended	___	Repealed	3
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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: December 16, 2022

Name: Amy Windrope for Kelly Susewind

Title: Director

Signature:



NEW SECTION

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

Effective immediately, until further notice, the provisions of WAC 220-340-455 regarding open periods for commercial crab harvest within Puget Sound and the geographic definition of the closure area within Marine Fish-Shellfish Management and Catch Reporting Area 21A shall be modified as described below. All other provisions of WAC 220-340-455 not addressed herein remain in effect unless otherwise amended by emergency rule:

- (a) Commercial harvest of Dungeness crab in Puget Sound is allowed during the “Open period” indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest on all other days is allowed starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

Geographical Management Unit (WAC 220-320-110)	Open Period
Region 1, MFSF Catch Areas 21A, 21B, and 22B	Immediately, through March 31, 2023.
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	Immediately, through April 15, 2023.
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120 (3))	8:00 am December 19, 2022, through February 1, 2023.
Region 2E, Everett Flats CSMA (WAC 220-320-120 (3))	8:00 am December 19, 2022, through December 31, 2022.
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120 (5))	Immediately, through February 15, 2023.
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120 (5))	Immediately, through February 15, 2023.
Subregion 3-1	Immediately, through March 31, 2023.
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120 (6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Immediately, through December 20, 2022.
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	Immediately, through December 20, 2022.
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120 (6))	Immediately, through December 20, 2022.
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	Immediately, through April 15, 2023.
Subregion 3-4	Immediately, through April 15, 2023.

- (b) The area closed to commercial harvest in WAC 220-340-455 (2)(c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast

portion of Point Francis (48.69730°, -122.60730°) to the old pilings at Stevie's Point (48.77675°, -122.55196°).

NEW SECTION

WAC 220-340-42000M Commercial crab fishery--unlawful acts.

Effective immediately, until further notice, the provisions of WAC 220-340-420 regarding barging of crab pots by commercial vessels in Puget Sound shall be modified as described below. All other provisions of WAC 220-340-420 not addressed herein remain in effect unless otherwise amended by emergency rule:

- (1) Effective 8:00 a.m. December 19, 2022 until 7:59 a.m. December 21, 2022 it is permissible to deploy Dungeness crab pots for commercial purposes in Crab Management Region 2E 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.
- (2) Puget Sound commercial crab license holders that intend to barge must send an email to crab.report@dfw.wa.gov, detailing the following information:
 - (a) Name and license number of licensed owner.
 - (b) Name of designated primary operator if different from licensed owner.
 - (c) Name of alternate operator if used to deploy pots from a non-designated vessel.
 - (d) Buoy brand number and number of pots to be deployed from a non-designated vessel.
 - (e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.
 - (f) Region or Set Location

NEW SECTION

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

Effective immediately, until further notice, the provisions of WAC 220-340-470 regarding Marine Fish-Shellfish Management and Catch Reporting Areas gear limits shall be modified as described below. All other provisions of WAC 220-340-470 not addressed herein remain in effect unless otherwise amended by emergency rule:

- (1) Effective during the “Open period” listed in amended section of WAC 220-340-455 above it will be unlawful for any person to harvest crabs with more than the “Pot limit” per license per buoy tag number indicated within each “geographical management unit”.

Geographical Management Unit (WAC 220-320-110)	Pot limit
Region 1, MFSF Catch Areas 21A, 21B, and 22B	30
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	30
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120 (3))	30
Region 2E, Everett Flats CSMA (WAC 220-320-120 (3))	30
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120 (5))	30
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120 (5))	20
Subregion 3-1	30
Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120 (6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	30
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	20
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120 (6))	20
Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	0
Subregion 3-3	30
Subregion 3-4	30

- (2) Effective after the “Open Period” listed in amended section of WAC 220-340-455 above, the “Pot Limit” within each “geographical management unit” will be reduced to “0”.

REPEALERS

The following sections of the Washington Administrative Code are repealed, effective immediately:

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

WAC 220-340-42000M Commercial crab fishery--unlawful acts.

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