



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 13, 2023

TIME: 4:11 PM

WSR 23-21-074

Agency: Department of Fish and Wildlife (Order 23-231)

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 open commercial crab fishing in Puget Sound;

WAC 220-320-12000B

Amends the boundary of the Dungeness Bay CSMA to match what will be implemented by permanent rule.

WAC 220-330-02000E

- (1) Implements a permitting exemption to the requirement that buoys remain on the surface that will be implemented by permanent rule.
- (2) Implements a requirement requiring that gear used match the depth and conditions that will be implemented by permanent rule.
- (3) Implements a restriction preventing the use of gear that has been marked in accordance with the requirements of another fixed gear fishery on the West Coast.
- (4) Implements a permitting exemption to the requirement that buoys remain on the surface that will be implemented by permanent rule.
- (5) Implements a requirement requiring that gear used match the depth and conditions that will be implemented by permanent rule.
- (6) Implements a restriction preventing the use of gear that has been marked in accordance with the requirements of another fixed gear fishery on the West Coast.

WAC 220-340-43000B

- (1) Clarifies where buoy tags must be attached on commercial crab gear fished in Puget Sound.
- (2) Implements an exception to the undeployed buoy tag requirement to permit their use as replacement tags that will be implemented in permanent rule.
- (3) Implements a replacement tag request process in order to use undeployed buoy tags to replace lost and unrecoverable gear that will be implemented in permanent rule.

WAC 220-340-45500X

- (1) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2-East, 2-West, 3-1, 3-2, 3-3 and 3-4 at 8:00 a.m. on October 20 through October 24, 2023.
- (2) Closes Port Angeles Harbor to commercial crab harvest due to public health decrees.
- (3) Amends the Bellingham Bay tribal exclusive area to match what will be implemented in permanent rule.

WAC 220-340-47000U

Sets reduced pot limits by area for Puget Sound commercial crab harvest effective the dates listed in the amended section of WAC 220-340-455.

WAC 220-352-06000A

- (1) Expands definition of landings to include shellfish that will be implemented via permanent rule.
- (2) Clarifies fish ticket completion and submission requirements for original receivers making landings on mobile devices and non-mobile electronic platforms.

Citation of rules affected by this order:

New:
 Repealed:
 Amended: WAC 220-320-120; 220-330-020; WAC 220-340-430; WAC 220-340-455; WAC 220-340-470;
 WAC 220-352-060
 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 remaining to open the Puget Sound commercial crab fishery in regions 1, 2-East, 2-West, 3-1, 3-2, 3-3, and 3-4, at 8:00 am on October 20, 2023 until one-hour after official sunset, October 24, 2023. These provisions are in conformity with agreed co-management plans. Co-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	6	Amended	_____	Repealed	_____
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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: October 13, 2023

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-320-12000B Commercial crab fishery--Puget Sound Crustacean (crab and shrimp) Special Management Areas.

Notwithstanding the provisions of WAC 220-320-120, effective immediately, until further notice:

Dungeness Bay CSMA is defined as: all waters of Dungeness Bay west of the -123.1103° (123°06.6') longitude line originating from the New Dungeness Light (48.1818°, -123.1103°).

NEW SECTION

WAC 220-330-02000E Crab, shrimp, crawfish—Gear and gear-related unlawful acts. General gear requirements:

Notwithstanding the provisions of WAC 220-330-020, effective immediately, until further notice:

- (1) Buoys must remain visible on the surface at all times, except during extreme tidal conditions, or unless otherwise authorized under a permit issued by the director.
- (2) Fishers shall use only the amount of line reasonably necessary to compensate for tides, currents, and weather.
- (3) It is unlawful to use gear that has one or more line marks or to use multicolor line consistent with requirements for any other state or federally managed commercial fishery operating in the U.S. West Coast Exclusive Economic Zone, or in the state waters of Washington, Oregon, or California.

NEW SECTION

WAC 220-340-43000B Commercial crab fishery—Gear requirements.

Notwithstanding the provisions of WAC 220-340-430, effective immediately, until further notice:

- (1) In Puget Sound, except if authorized by permit issued by the director, all crab buoys must have the department-issued buoy tag attached to the outermost end of the buoy line.
- (2) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection by the department, except under the following conditions: The holder or alternate operator of a Puget Sound crab license

has declared, as permitted under subsection (3), that deployed tags have been lost and are unrecoverable, under penalty of perjury, and has been granted permission by the department to use undeployed buoy tags as a replacement.

- (3) Puget Sound replacement crab buoy tag requirements are as follows: Puget Sound commercial crab license holders are required to request permission to use undeployed buoy tags in the event deployed buoy tags are lost and are unrecoverable. Requests to use undeployed buoy tags must state the number of buoy tags lost, the location and date where the licensee last observed lost gear or tags, and the presumed cause of the loss. Requests must be made using a department provided electronic form.

NEW SECTION

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

Notwithstanding the provisions of WAC 220-340-455, effective October 20 through October 24, 2023:

- (1) Harvest of Dungeness crab in Puget Sound is permitted during the “Open period” indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest for these areas after the opening date is permitted 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	October 20 through October 24, 2023
Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B	October 20 through October 24, 2023
Region 2E, excluding Everett Flats CSMA (WAC 220-320-120 (3))	October 20 through October 24, 2023
Region 2E, Everett Flats CSMA (WAC 220-320-120 (3))	October 20 through October 24, 2023
Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120 (5))	October 20 through October 24, 2023
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120 (5))	October 20 through October 24, 2023
Subregion 3-1	October 20 through October 24, 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)).	October 20 through October 24, 2023
Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a))	October 20 through October 24, 2023
Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120 (6))	October 20 through October 24, 2023

Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)).	Closed, due to on-going public health concerns.
Subregion 3-3	October 20 through October 24, 2023
Subregion 3-4	October 20 through October 24, 2023

(2) 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 (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

NEW SECTION

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

Notwithstanding the provisions of 220-340-470, effective October 20 through October 24, 2023:

Effective during the “Open period” listed in WAC 220-340-45500X , it is 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))	35
Region 2W, Port Townsend Bay CSMA (WAC 220-320-120 (5))	20
Subregion 3-1	35
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)).	35
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	35
Subregion 3-4	35

NEW SECTION

WAC 220-352-06000A Completion, submission, distribution, and retention of copies of nontreaty fish receiving tickets.

Notwithstanding the provisions of WAC 220-352-060, effective immediately, until further notice:

- (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 or shellfish being processed or transported away from the delivery site.
- (2) Original receivers who are required to submit fish receiving tickets using an electronic form under WAC 220-352-035 (2) must:
 - (a) For deliveries completed on a mobile device, original receivers are required to fill out an electronic fish ticket form at the delivery location and submit it immediately following the completion of the delivery of fish or shellfish before leaving the delivery location.
In the event of a cellular or broadband outage or lack of service at the delivery site, the original receiver must submit the ticket immediately upon regaining access to a cellular or broadband connection following the completion of the delivery.
 - (b) For deliveries of fish and shellfish made to original receivers using a non-mobile device or desktop electronic fish ticket form, the original receiver must submit the ticket within 24 hours after the delivery is completed except:
For deliveries of coastal Dungeness crab, the original receiver must submit the ticket by the close of the next business day after the delivery is complete.
 - (c) Submit the ticket in compliance with the timely reporting conditions set forth in the electronic fish receiving ticket reporting agreement if reporting voluntarily under WAC 220-352-035(3).