



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Department of Fish and Wildlife

Permanent Rule Only

Effective date of rule:

Permanent Rules 10-03

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

Yes No If Yes, explain:

Purpose:

State laws and rules can be more restrictive than their federal counterparts, but not less restrictive. WAC 220-50-068 requires the use of scallop dredge gear to harvest scallops in the coastal fishery. This conflicts with National Marine Fisheries Service regulation 50 C.F.R. Part 660.306, which prohibits the use of dredge gear in groundfish essential fish habitat (EFH). Specifically, dredge gear is prohibited from high tide out to 200 miles, which coincides with where groundfish EFH occurs. The Department wants to amend WAC 220-50-068 to make it consistent with federal rules.

Citation of existing rules affected by this order:

Repealed:
Amended: WAC 220-52-068
Suspended:

Statutory authority for adoption: RCW 77.04.020, 77.12.045, 77.12.047

Other authority : National Marine Fisheries Service regulation 50 C.F.R. Part 660.306

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-24-083 on November 30, 2009.
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

Date adopted: January 19, 2010

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

**DATE: January 19, 2010
TIME: 4:22 PM**

WSR 10-03-087

**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Federal statute:	New	_____	Amended	_____	Repealed	_____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	<u>1</u>	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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 in the agency's own initiative:

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

AMENDATORY SECTION (Amending Order 00-165, filed 8/22/00, effective 9/22/00)

WAC 220-52-068 Scallop fishery--Coastal waters. (1) It is unlawful to fish for or possess scallops taken for commercial purposes from the waters of the Exclusive Economic Zone (~~except as provided for in this section.~~

~~(1) Season: July 1 through November 30 in the waters of the Exclusive Economic Zone).~~

(2) It is unlawful to trawl for scallops in Washington territorial waters west of the Bonilla-Tatoosh line or in Marine Fish-Shellfish Management and Catch Reporting Area 29.

~~((2) Gear: Only scallop dredge gear may be used. Scallop dredge gear may not exceed fifteen feet in width per unit of gear and must have three inch or larger net mesh or rings throughout. Scallop dredges may not use a dredge liner nor have chaffing gear covering any portion of the top half of the dredge.~~

~~(3) Licensing: A shrimp trawl non-Puget Sound fishery license is the license required to operate the gear provided for in this section.~~

~~(4) Incidental catch: It is unlawful to retain food fish or shellfish taken incidental to any lawful scallop fishery, except that it is lawful to retain octopus and squid.)~~ (3) A violation of this section is punishable under RCW 77.15.520 Commercial fishing--Unlawful gear or methods--Penalty; and RCW 77.15.550 Violation of commercial fishing area or time--Penalty.