



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

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: This rule amendment creates a permit to be issued in conjunction with Washington pink shrimp trawl licenses. The permit, to be issued annually and at no cost to fishers, would describe conditions to be met to participate in the Washington ocean shrimp trawl fishery, including the condition that vessels participate in federal and/or state groundfish observer programs. Without observer coverage, information about bycatch cannot be collected. In data-poor situations, management must be more conservative to address the uncertainty than might otherwise be necessary had adequate information been available.

Citation of existing rules affected by this order:

Repealed:
Amended: WAC 220-52-050 Ocean pink shrimp trawl fishery – Coastal waters
Suspended:

Statutory authority for adoption: RCW 77.12.047

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-23-117 on November 18, 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: February 5, 2010

NAME (TYPE OR PRINT)

Miranda Wecker

SIGNATURE

Miranda Wecker

TITLE

Chair, Washington Fish and Wildlife Commission

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 11, 2010
TIME: 2:11 PM

WSR 10-05-059

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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 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 03-30, filed 2/18/03, effective 3/21/03)

WAC 220-52-050 Ocean pink shrimp trawl fishery--Coastal waters. It is unlawful to fish for, possess or deliver ocean pink shrimp taken for commercial purposes from the waters of the Exclusive Economic Zone, except as provided for in this section:

Area

(1) ~~((Ocean pink shrimp fishery: (a)))~~ It is unlawful to fish for ocean pink shrimp within the territorial boundaries of the state. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

Season

(2) It is unlawful to fish for, take, or possess on board a fishing vessel, pink shrimp, except during the following time: The open season for trawl gear is April 1 through October 31 of each year. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

~~((b) The following gear is prohibited:))~~

Gear

(3) It is unlawful to fish with or possess pink shrimp taken with shrimp trawl gear having a net mesh size greater than two inches in the intermediate or codend, except for net mesh used in ~~((fish excluder devices.))~~ by-catch reduction devices defined under subsection (4) of this section. However, it is lawful to have net mesh larger than two inches in the wings or body of the trawl.

~~((c))~~ (4) It is unlawful to fish with trawl gear for pink shrimp for commercial purposes unless an approved by-catch reduction device is used in each net. Approved by-catch reduction devices ~~((are))~~ include:

~~((i))~~ (a) A Soft Panel By-catch Reduction Device, which uses a mesh panel to guide fish out of an escape hole. An approved soft-panel must meet the following criteria:

~~((A))~~ (i) The panel must completely cover some portion of the net in cross-section, meaning it must extend completely across the full opening of the net in one continuous piece. The panel must be securely fastened to the net around the entire perimeter, such that a 110 mm diameter sphere cannot pass beyond the panel into the terminal end of the codend;

~~((B))~~ (ii) The panel meshes must be constructed of netting material with individual meshes no larger than 5.5 inches, measured between opposing knots, and must be constructed of a single panel of continuous netting, without zippers or other devices designed to

allow disabling of the panel such that large fish can pass back into the codend;

~~((C))~~ (iii) The escape hole must, when spread open, expose a hole of at least 100 square inches; and

~~((D))~~ (iv) The escape hole must be forward of the mesh panel and must begin within four meshes of the furthest aft point of attachment of the mesh panel to the net ~~((7))~~.

~~((ii))~~ (b) A Nordmore Grate By-catch Reduction Device, which uses a rigid panel of narrowly spaced vertical bars to guide fish out of an escape hole in front of the panel, generally in the top of the net. An approved Nordmore grate must meet the following criteria:

~~((A))~~ (i) The exterior circumference of the rigid panel must fit completely within the interior circumference of the trawl net, such that there is no space between the panel and the net that will allow a 110 mm sphere to pass beyond the panel, into the terminal area of the codend;

~~((B))~~ (ii) None of the openings between the vertical bars in the rigid panel may exceed two inches in width;

~~((C))~~ (iii) The escape hole must, when spread open, expose a hole of at least 100 square inches; and

~~((D))~~ (iv) The escape hole must be forward of the rigid panel and must begin within four meshes of the furthest aft point of attachment of the rigid panel to the net.

~~((d) All by-catch reduction devices and codends used for trawl fishing for pink shrimp must be readily accessible and made available for inspection at the request of an authorized agent of the state. No trawl gear may be removed))~~ (5) It is unlawful to remove trawl gear from the vessel prior to offloading of shrimp.

~~((e))~~ (6) It is unlawful to modify by-catch reduction devices in any way that interferes with their ability to allow fish to escape from the trawl, except for the purpose of testing the by-catch reduction device to measure shrimp loss. Authorized testing of by-catch reduction devices must meet the following criteria:

~~((i))~~ (a) Testing is allowed by special permit only, consistent with the terms and conditions of the permit; and

~~((ii))~~ (b) For vessels fishing two nets simultaneously (double-rigged boats), only one net may contain a disabled by-catch reduction device, and the other net must be fishing a fully functional by-catch reduction device as described in ~~((e) of this))~~ subsection (4) of this section.

~~((f) Minimum number of shrimp per pound:))~~ (7) A violation of subsections (4) through (6) of this section is punishable under RCW 77.15.520, Commercial fishing--Unlawful gear or methods--Penalty.

(8) It is unlawful to land or deliver pink shrimp to an original receiver that exceeds the following count per pound restriction: The count per pound must average no more than 160 shrimp per pound for a minimum of two samples, increasing at a rate of one sample per one thousand pounds landed or in possession, up to a maximum requirement of twenty samples. Such samples shall consist ~~((s))~~ of at least one pound ~~((of))~~ each of whole, unbroken shrimp taken at random from throughout the individual load landed

or in possession. This landing restriction shall apply only to loads of 3,000 pounds of shrimp or more. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

Incidental catch

~~((g) Incidental catch-finfish:))~~ (9) It is unlawful to take salmon incidental to any shrimp trawl fishery.

(10) It is unlawful to retain any bottomfish species taken incidental to any shrimp trawl fishery, except as provided for in WAC 220-44-050.

~~((h) Incidental catch-shellfish:~~

~~(i) It is unlawful to retain any species of shellfish except that it is lawful to retain up to 50 pounds round weight of other shrimp species taken incidentally in the ocean pink shrimp fishery, or octopus or squid.~~

~~(ii) It is unlawful to fish for ocean pink shrimp within the territorial boundaries of the state.~~

~~(i))~~ (11) It is unlawful to retain any species of shellfish, except that it is permissible to:

(a) Retain up to 50 pounds round weight of other shrimp species taken incidentally in the ocean pink shrimp fishery; and

(b) Retain octopus or squid.

(12) A violation of subsections (9) through (11) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time--Penalty.

License

(13) An ocean pink shrimp delivery license is ~~((the license))~~ required to operate the gear provided for in this section, and it allows the operator to retain shrimp taken in the waters of the Exclusive Economic Zone.

~~((2) Fisheries for shrimp species other than ocean pink shrimp or ocean spot shrimp: Species other than ocean pink shrimp and ocean spot shrimp may only be taken incidentally to the ocean pink shrimp and ocean spot shrimp fisheries.))~~ A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license--Penalty.

Permit

(14) It is unlawful to fish for, retain, land, or deliver shrimp taken with trawl gear without a valid shrimp trawl fishery permit.

(15) It is unlawful to take, retain, land, or deliver any shrimp or groundfish taken with trawl gear without complying with all provisions of a shrimp trawl fishery permit.

(16) A violation of subsection (14) or (15) of this section is punishable under RCW 77.15.750.