



RULE-MAKING ORDER

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

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 10-235

- Immediately upon filing.
- Later (specify) 6:00 a.m. September 13, 2010

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

- Yes
 - No
- If Yes, explain:

Purpose: Amend commercial fishing rules

Citation of existing rules affected by this order:

Repealed: WAC 220-52-05100N
 Amended: WAC 220-52-051
 Suspended:

Statutory authority for adoption: RCW 77.12.047 and RCW 77.04.020

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.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: The 2010 State/Tribal Shrimp Harvest Management Plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule opens the spot shrimp pot fishery season in SMA 1A, 1B and Catch Areas 23A-C, 23A-E, 23B and 25A for two days with catch limits to harvest the relatively small amount of quota remaining in those areas. In addition, this emergency rule closes the spot shrimp pot fishery season in the remaining open areas of Puget Sound on September 15 to protect egg bearing females as per the Puget Sound Shrimp Management Plans. There is insufficient time to adopt permanent rules.

Date adopted: September 9, 2010

NAME (TYPE OR PRINT)

Philip Anderson

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 09, 2010

TIME: 3:21 PM

WSR 10-19-033

**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 | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in the agency's own initiative:

| | | | | | |
|-----|----------|---------|-------|----------|----------|
| New | <u>1</u> | Amended | _____ | Repealed | <u>1</u> |
|-----|----------|---------|-------|----------|----------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

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 | _____ |

NEW SECTION

WAC 220-52-05100P Puget Sound shrimp pot and beam trawl fishery—season.

Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) Effective immediately, all waters of Shrimp Management Areas (SMA) 1A, 1B, 2W, 3 and 6 are open to the harvest of all shrimp species until further notice, except as provided for in this section:

(i) All waters of SMA 1A, 1B, Marine Fish-Shellfish Management and Catch Reporting Area (Catch Area) 23A-C, 23A-E, 23A-W and the Discovery Bay Shrimp District are closed with the following exceptions:

a. Effective 6:00 a.m. September 13, 2010, until 6:00 p.m. September 15, 2010, SMA 1A, 1B, Catch Areas 23A-C and 23A-E are open to the harvest of spot shrimp.

(ii) All waters of SMA 2W, Catch Areas 23B, 25A and 26D are closed to the harvest of spot shrimp with the following exceptions:

a. Effective 6:00 a.m. September 13, 2010, until 6:00 p.m. September 15, 2010, Catch Areas 23B and 25A are open to the harvest of all shrimp species.

(iii) Effective 6:00 p.m. September 15, 2010, all waters of Catch Areas 23C, 23D, 23A-S, 29 and SMA 6 are closed to the harvest of spot shrimp.

(b) Effective immediately until further notice, only pots with a minimum mesh size of 1 inch may be pulled on calendar days when fishing for or retaining spot shrimp. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1-3/4 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite knot of one mesh, when the mesh is stretched vertically.

(c) The shrimp accounting week is Tuesday through Monday.

(d) Effective immediately, until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week.

(e) Effective 6:00 a.m. September 13, 2010, until 6:00 p.m. September 15, 2010, it is unlawful for the total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 270 pounds in SMA 1A, or to exceed 190 pounds in SMA 1B or Catch Area 25A, or to exceed 200 pounds in Catch Area 23A-C or Catch Area 23B, or to exceed 120 pounds in Catch Area 23A-E.

(f) It is unlawful to pull shellfish pots for commercial purposes in more than one Catch Area per day. Fishers may move all of their shellfish pot gear from one Catch Area to another Catch Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information:

- (i) The number of pots being moved to a new area; and
- (ii) The Catch Area the pots are being moved to.

(g) It is unlawful to set or pull shellfish pots in one Catch Area while in possession of shrimp harvested from another Catch Area, except that shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section (1)(f) above.

(2) Shrimp beam trawl gear:

- (a) SMA 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open immediately until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.
- (b) Those portions of Catch Areas 21A and 22A within SMA 1B are open immediately until further notice.
- (c) All waters of Catch Area 20A are open.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. September 13, 2010:

WAC 220-52-05100N Puget Sound shrimp pot and beam trawl fishery—season. (10-227)

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

(x) 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.

() That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: The 2010 State/Tribal Shrimp Harvest Management Plans for the Strait of Juan de Fuca and Puget Sound require adoption of harvest seasons contained in this emergency rule. This emergency rule opens the spot shrimp pot fishery season in SMA 1A, 1B and Catch Areas 23A-C, 23A-E, 23B and 25A for two days with catch limits to harvest the relatively small amount of quota remaining in those areas. In addition, this emergency rule closes the spot shrimp pot fishery season in the remaining open areas of Puget Sound on September 15 to protect egg bearing females as per the Puget Sound Shrimp Management Plans. There is insufficient time to adopt permanent rules.

(10-235, 9/9/2010)

