



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 12-219

- Immediately upon filing.
- Later (specify) October 1, 2012

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Repealed: WAC 220-52-07100T, WAC 220-52-07300A
 Amended: WAC 220-52-071, WAC 220-52-073
 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 year 2009, 2010, 2011, 2012, or 2013, 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: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Daily landings limits for sea cucumbers have been requested by the industry in an effort to conserve harvest quota and maximize market opportunities. Also, harvestable amounts of red and green sea urchins exist in the areas described. By harvest management agreement, the legal size limits for red sea urchins have changed for the 2012-2013 harvest management period from those listed in the permanent sea-urchin regulation. Prohibiting all diving from licensed sea-urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. There is insufficient time to adopt permanent rules.

Date adopted: September 21, 2012

NAME (TYPE OR PRINT)
Philip Anderson

SIGNATURE

TITLE
Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 21, 2012
TIME: 12:22 PM

WSR 12-20-009

**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	<u>2</u>	Amended	_____	Repealed	<u>2</u>
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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	_____

ORDER NO. 12-219

NEW SECTION

WAC 220-52-07100U Sea Cucumbers.

Notwithstanding the provisions of WAC 220-52-071, effective October 1, 2012, until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

- (1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Monday and Tuesday of each week.
- (2) The maximum cumulative landing of sea cucumbers for each two-day fishery opening period is 1,600 pounds per valid designated sea cucumber harvest license. It is permissible for all or any fraction of the maximum 1,600 pound total to be harvested during any legal harvest date so long as the cumulative total for the two-day opening does not exceed the maximum.

NEW SECTION

WAC 220-52-07300B Sea Urchins

Notwithstanding the provisions of WAC 220-52-073, effective October 1, 2012, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

- (1) Green sea urchins: Sea Urchin Districts 1 and 2 are open Sunday through Wednesday of each week. Sea Urchin Districts 3, 4, 6 and 7 are open Monday through Friday of each week.
- (2) Red sea urchins: Sea Urchin Districts 1, 2 and 4 are open Monday through Friday of each week. In Sea Urchin Districts 1, 2 and 4 it is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).
- (3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.
- (4) Red and green sea urchins harvested in Sea Urchin Districts 1 and 2 must be landed within Sea Urchin Districts 1 and 2.

REPEALERS

The following sections of the Washington Administrative Code are repealed effective October 1, 2012:

WAC 220-52-07100T Sea Cucumbers. (12-168)

WAC 220-52-07300A Sea Urchins. (12-200)

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: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Daily landings limits for sea cucumbers have been requested by the industry in an effort to conserve harvest quota and maximize market opportunities.

Harvestable amounts of red and green sea urchins exist in the areas described. By harvest management agreement, the legal size limits for red sea urchins have changed for the 2012-2013 harvest management period from those listed in the permanent sea urchin regulation. Prohibiting all diving from licensed sea urchin harvest vessels within Sea Urchin District 3 when those vessels have red sea urchin on-board discourages the taking of red urchins from the district (currently closed to red urchin harvest) and reporting the catch to the adjacent harvest district. Prohibiting transport of urchins from Districts 1 and 2 to other districts will prevent spoiling of product, promote accurate catch accounting, and provide for an orderly fishery. There is insufficient time to adopt permanent rules.

(12-219, 9/21/2012)