



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (August 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: March 21, 2018

TIME: 4:13 PM

WSR 18-08-003

Agency: Washington Department of Fish and Wildlife (WDFW) 18-46

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: The department is amending its rules based on the formal recommendations of the federal National Marine Fisheries Service Eulachon Recovery Plan in order to reduce the bycatch of eulachon smelt which is listed under ESA as a threatened species.

Citation of rules affected by this order:

New:
 Repealed:
 Amended: WAC 220-340-500
 Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047

Other authority: None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-01-093 on December 18, 2017 (date).
 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:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Web site:
 Other:

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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New	_____	Amended	_____	Repealed	_____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New	_____	Amended	1	Repealed	_____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New	_____	Amended	_____	Repealed	_____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: March 17, 2018

Name: Joe Stohr

Title: Director, Department of Fish and Wildlife

Signature:



WAC 220-340-500 Commercial 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) 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.

Gear

(3) 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. A by-catch reduction device, also known as a finfish excluder, uses a rigid panel or grate of narrowly spaced bars to guide fish out of an escape hole forward of the panel, generally in the top of the net. An approved by-catch reduction device must meet the following criteria:

(a) The exterior circumference of the rigid panel must fit completely within the interior circumference of the trawl net;

(b) None of the openings between the bars in the rigid panel may exceed 0.75 inches;

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

(d) 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.

(4) 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 as provided by special gear permit as described in subsection (5) of this section.

(5) Testing of by-catch reduction devices is allowed by special gear permit only, consistent with the terms and conditions of the permit.

(6) It is unlawful to remove trawl gear from the vessel prior to offloading shrimp without advance notification to WDFW enforcement. To provide advance notification, contact 360-902-2936, and then press zero when the recording begins.

(7) It is unlawful to fish with trawl gear for pink shrimp for commercial purposes unless footrope lighting devices that have been approved by the department are used in each net. A list of approved footrope lighting devices is available from the department. Footrope lighting devices must meet the following criteria:

(a) Lighting devices must be operational;

(b) Lighting devices must be securely attached within six inches of the forward leading edge of the bottom panel of trawl netting; and

(c) Each trawl net must have a minimum of five lighting devices, spaced four feet apart in the central sixteen feet of each net.

(8) It is unlawful to modify footrope lighting devices or device placement on the footrope in any way inconsistent with subsection (7)(c) of this section, except as provided by special gear permit as described in subsection (9) of this section.

(9) Testing of footrope lighting devices or placement on the footrope is allowed by special gear permit only, consistent with the terms and conditions of the permit.

(10) A violation of subsections (3) through (6) of this section is punishable under RCW 77.15.520, Commercial fishing—Unlawful gear or methods—Penalty.

~~((8))~~ (11) 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 of at least one pound each of whole, unbroken shrimp taken at random 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

~~((9))~~ (12) It is unlawful to take salmon incidental to any shrimp trawl fishery.

~~((10))~~ (13) It is unlawful to retain any bottomfish species taken incidental to any shrimp trawl fishery, except as provided for in WAC 220-355-100.

~~((11))~~ (14) 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))~~ (15) A violation of subsections ~~((9) through (11))~~ (12) through (14) of this section is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

License

~~((13))~~ (16) An ocean pink shrimp delivery license is 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.

A violation of this subsection is punishable under RCW 77.15.500, Commercial fishing without a license—Penalty.

Permit

~~((14))~~ (17) It is unlawful to fish for, retain, land, or deliver shrimp taken with trawl gear without a valid shrimp trawl fishery permit.

~~((15))~~ (18) 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))~~ (19) A violation of subsection ~~((14) or (15))~~ (17) or (18) of this section is punishable under RCW 77.15.750.