



# 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 16-231**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**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 for Puget Sound scallops

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: WAC 220-52-069  
 Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020, 77.12.045 and RCW 77.12.047

**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: A harvestable surplus of pink and spiny scallops exists in the areas specified in Puget Sound to allow for commercial harvest. This emergency rule is needed because by permanent rule it is unlawful to take or possess pink or spiny scallops for commercial purposes, except during open scallop harvest seasons from open shellfish management areas as provided by emergency rule.

**Date adopted:** August 31, 2016

**NAME (TYPE OR PRINT)**

J W Unsworth

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: August 31, 2016**

**TIME: 1:29 PM**

**WSR 16-18-054**

(COMPLETE REVERSE SIDE)

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	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>1</u>	Amended	_____	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:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

NEW SECTION

**WAC 220-52-06900K Commercial scallop fishery—Puget Sound**

Notwithstanding the provisions of WAC 220-52-069, effective immediately until further notice, it is unlawful to take or possess pink or spiny scallops taken for commercial purposes except as provided for in this section:

(1) It is unlawful to fish for, take, or possess pink or spiny scallops with shellfish dive gear without a commercial scallop dive fishery license holder on board the designated harvest vessel.

(2) Pink or spiny scallop harvest using shellfish diver gear is allowed in Scallop Area 1, which is defined as the waters of marine fish - shellfish catch reporting areas 20A and 20B within the following boundaries: Point Doughty east along the shoreline of Orcas Island to Lawrence Point, then true north to 48° 42' 28" N latitude, 122° 44' 29" W longitude, then northwest to 48° 47' 18" N latitude, 122° 48' 8" W longitude, then northwest to 48° 50' 4" N latitude, 122° 50' 24" W longitude, then southwest to 48° 49' 46" N latitude, 122° 51' 59" W longitude, then southwest to 48° 46' 4" N latitude, 122° 57' 3" W longitude, then true south back to Point Doughty, except within 100 feet of any shoreline, or shallower than 30 feet below mean lower low water, whichever is further from shore, and within 2500 feet from the shoreline of Orcas Island between Point Doughty and Point Thompson, and those waters of Echo Bay, Sucia Island west of a line projected from Johnson Point to the southeast tip of Ewing Island. Pink or spiny scallop harvest using shellfish diver gear is also allowed in Washington Department of Health (DOH) Approved Commercial Shellfish Growing Areas of Marine Fish/Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B and 25A.

(3) It is unlawful for more than two divers from a harvest vessel to be in the water at any one time during pink or spiny scallop harvest operations or when commercial quantities of pink or spiny scallops are on board the vessel.

(4) It is unlawful to possess any other species of commercial shellfish during pink or spiny scallop harvest operations, or possess any other species of commercial shellfish on a vessel that has pink or spiny scallops on board.

**Reasons for this finding:** A harvestable surplus of pink and spiny scallops exists in the areas specified to allow for commercial harvest. This emergency rule is needed because by permanent rule it is unlawful to take or possess pink or spiny scallops for commercial purposes, except during open scallop harvest seasons from open shellfish management areas as provided by emergency rule.

**(16-231, 8/31/2016)**

