



# RULE-MAKING ORDER EMERGENCY RULE ONLY

## CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: February 28, 2018

TIME: 2:20 PM

WSR 18-06-033

**Agency:** Washington Department of Fish and Wildlife (18-29)

**Effective date of rule:**

**Emergency Rules**

- 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:** Amends rules for the Puget Sound commercial scallop fishery

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

New:  
 Repealed: WAC 220-340-61000C  
 Amended: WAC 220-340-610  
 Suspended:

**Statutory authority for adoption:** RCW 77.04.012, 77.04.020 and 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.

**Reasons for this finding:** This emergency rule is needed to open Burrows Bay Scallop Area 3. Department of Health has classified this area as restricted and harvestable surplus of pink and spiny scallops exists to allow for commercial harvest. There is insufficient time to adopt permanent rules.

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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New \_\_\_\_ Amended \_\_\_\_ Repealed \_\_\_\_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 on the agency's own initiative:**

New 1 Amended \_\_\_\_ Repealed 1

**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	____

<b>Date Adopted:</b> February 28, 2018	<b>Signature:</b> 
<b>Name:</b> Nate Pamplin for Joe Stohr	
<b>Title:</b> Acting Director	

## NEW SECTION

### **WAC 220-340-61000D Commercial scallop fishery—Puget Sound.**

Notwithstanding the provisions of WAC 220-340-610, 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 only 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, 25A and 25B, except as noted in (3) below.
- (3) Pink or spiny scallop harvest using shellfish diver gear is also allowed within DOH Restricted Scallop Area 2 Rosario Strait and Scallop Area 3 Burrows Bay defined by the Washington Department of Health in Marine Fish/Shellfish Catch Reporting Areas 20B, 21A, and 22A.
- (4) 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.
- (5) It is unlawful to possess any other species of commercial shellfish during pink or spiny scallop harvest operations and when pink or spiny scallops are onboard the harvest vessel.

## REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-61000C Commercial scallop fishery. (18-20)