



# RULE-MAKING ORDER EMERGENCY RULE ONLY

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: April 20, 2020

TIME: 3:03 PM

WSR 20-09-125

**Agency:** Washington Department of Fish and Wildlife (20-59)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) April 21, 2020

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

- Yes  No If Yes, explain:

**Purpose:** Amend Puget Sound commercial scallop rules.

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

New:  
Repealed: WAC 220-340-61000H  
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 because the Department of Health has closed the Lopez Island Southeast growing area due to high Paralytic Shellfish Poisoning test results, a harvestable surplus of pink and spiny scallops exists in the areas specified, and small landings for the purpose of public health testing should be allowed in Approved and Restricted growing areas. 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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	1	Amended	___	Repealed	1
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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:** April 20, 2020

**Name:** Kelly Susewind

**Title:** Director

**Signature:**



## NEW SECTION

### **WAC 220-340-61000I 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) Pink or spiny scallop harvest is limited to 10 pounds per day for the sole purpose of submitting a sample to the Washington Department of Health for public health testing.
- (2) 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.
- (3) Pink or spiny scallop harvest using shellfish diver gear, for the purposes of public health testing, 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.
- (4) Pink or spiny scallop harvest using shellfish diver gear, for the purposes of public health testing, is also allowed within DOH Restricted Scallop Area 2 Rosario Strait, Restricted Scallop Area 3 Burrows Bay and Restricted Scallop Area 4 Lopez Island Southeast defined by the Washington Department of Health in Marine Fish/Shellfish Catch Reporting Areas 20B, 21A, 22A, 23A and 23B.
- (5) 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.
- (6) 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 April 21, 2020:

WAC 220-340-61000H Commercial Scallop fishery—Puget Sound. (19-320)