



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: August 19, 2021

TIME: 7:36 AM

WSR 21-18-008

Agency: Department of Fish and Wildlife (Order 21-152)

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: Closes commercial spot shrimp pot harvest in Shellfish Management Areas 1, 2E, 2W, 3, and Marine Fish/Shellfish Catch Area 26D effective immediately.

Citation of rules affected by this order:

New:
 Repealed: WAC 220-340-52000J; WAC 220-340-03000N
 Amended: WAC 220-340-520; WAC 220-340-030
 Suspended:

Statutory authority for adoption: RCW 77.04.012, 77.04.020, 77.12.045 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:

- (1) Closes Shellfish Management Areas 1, 2E, 2W, 3, and Marine Fish/Shellfish Catch Area 26D to commercial spot harvest effective immediately.
- (2) Closes Shrimp Management Area 2E to all commercial shrimp harvest.
- (3) Defines the shrimp management areas and Regions open to spot and non-spot commercial harvest.
- (4) Defines spot pot gear requirements.
- (5) Defines non-spot gear requirements.
- (6) Implements labeling requirements for groundline pot gear.
- (7) Implements restrictions for the concurrent use of spot shrimp and on-spot shrimp pot gear.
- (8) Implements a fishing declaration requirement for all shrimp pot fisheries in Puget Sound.
- (9) Sets harvest restrictions for and opens the non-spot commercial pot fishery.
- (10) Sets harvest restrictions for and opens the spot commercial pot fishery.
- (11) Sets the harvest and gear limitations for and opens the Puget Sound shrimp trawl fishery.
- (12) Requires purchase of shrimp harvested by the designated fisheries to be done by appropriately licensed dealers.

The emergency regulation closes spot shrimp pot harvest in all areas of Puget Sound while commercial clean-up targets are being determined and coordinated. Sections of this regulation define open areas to allow adequate flexibility for the state commercial shrimp fisheries to respond to dynamic changes in market conditions and to allow for full utilization of both the commercial spot and non-spot shares while also achieving the 50/50 harvest defined by the Federal Court Order. Sections of this regulation add additional reporting requirements to allow managers to track commercial fishing effort.

**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 | 2 | Amended | ___ | Repealed | 2 |
|-----|---|---------|-----|----------|---|

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 | ___ |

| | |
|--------------------------------------|---|
| Date Adopted: August 18, 2021 | Signature:  |
| Name: Kelly Sussewind | |
| Title: Director | |

NEW SECTION

WAC 220-340-52000K Puget Sound shrimp pot and trawl fishery—season.

Notwithstanding the provisions of WAC 220-340-520, effective immediately until further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp Pot Harvests:

(a) All waters of Shrimp Management Areas 1A, 1B, 1C, 2W and 3 are open to the harvest of non-spot shrimp species, effective immediately, until further notice, except as provided for in this section:

(i) Sub-area 23A-S of Marine Fish/Shellfish Catch Reporting Area 23A are closed to the commercial harvest of non-spot shrimp until the harvestable share available for the state managed commercial spot shrimp fishery is taken.

(b) There is no minimum size limit for spot shrimp or non-spot shrimp.

(c) Shrimp pot gear used for commercial harvest must meet the following requirements:

(i) A shrimp pot may not exceed a maximum 153 inch bottom perimeter and a maximum of 24 inch height.

(ii) The entire top, bottom, and sides of the shrimp pot must be constructed of mesh material. Use of liners is prohibited.

(iii) Entrance tunnels to shrimp pots may be constructed of any size mesh material. All entrance tunnels must open into the pot from the side. The sum of the maximum widths of all entrance tunnel openings must not exceed half of the perimeter of the bottom of the pot.

(iv) Spot shrimp may only be harvested using pots with a minimum mesh size of 1 inch. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1-3/4 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(v) Non-spot shrimp may only be harvested using pots with a minimum mesh size 1/2 inch. Mesh of 1/2 inch is defined as a mesh that a 3/8 inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be at a minimum 1 1/8 inch stretch measure. Stretch measure is

defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(d) Buoys must have the number of pots deployed per groundline recorded on each end-buoy of a groundline.

(e) It is lawful to concurrently deploy spot shrimp pots and non-spot pots with the following restrictions:

(i) Spot pots and non-spot pots may not be deployed concurrently within the same Catch Reporting Area, with the following exceptions:

Spot and non-spot pots may be concurrently deployed in Catch Area is 23A but not within the same sub-area (23A-E, 23A-W, 23A-C, or 23A-S).

Non-spot pots may be deployed within Sequim Bay, defined as that portion of Marine Fish/Shellfish Catch Area 25A south of a line true west from Travis Spit to the Miller Peninsula, concurrently with spot shrimp pots in the remaining portion of 25A outside of Sequim Bay.

(ii) All shrimp harvested must be landed and recorded on a shellfish receiving ticket before subsequent harvest may occur.

(f) Each fisher or alternate operator is required to report their intended catch area of harvest, target species (spot or non-spot), and the amount of pounds that are being targeted prior to the deployment of any shrimp gear to either shrimp.report@dfw.wa.gov, by text message to 360-302-6372, or by other electronic means designated by the Department.

(g) It is unlawful to harvest non-spot and spot shrimp in the same day.

(h) It is unlawful to harvest shrimp in more than one catch area per day.

(2) Shrimp Non-spot Pot Harvest Restrictions

(a) The non-spot shrimp catch accounting period is weekly, from 12:00a.m. on Wednesdays through 11:59 p.m. on Tuesdays.

(b) It is unlawful for the combined total harvest of non-spot shrimp per license to exceed 1000 pounds per non-spot shrimp catch accounting week from Shrimp Management Areas 1A, 1B, 1C, 2E and 2W combined.

(c) Harvest of non-spot shrimp is not permitted deeper than 150 feet in Region 2E. Region 2E is comprised of Catch Areas 24A, 24B, 24C, 24D, and 26AE (26A northerly of a line drawn from the southern tip of Possession Point on Whidbey Island 110° true to the shipwreck on the opposite shore).

(d) Harvest of non-spot shrimp is not permitted deeper than 175 feet in Region 2W. Region 2W is comprised of Catch Areas 25B, 25C, 25D, and 26AW.

- (3) Shrimp Spot Pot Harvest Restrictions:
- (a) All waters of Puget Sound are closed to commercial spot shrimp harvest.
- (4) Shrimp trawl Harvest Restrictions:
- (a) Shrimp Management Area (SMA) 3 (outside of the Discovery Bay Shrimp District, Sequim Bay and Catch Area 23D) is open, effective immediately, until further notice. Sequim Bay includes those waters of Catch Area 25A south of a line projected west from Travis Spit on the Miller Peninsula.
 - (b) That portion of Catch Area 22A within SMA 1B east of a line projected 122.47°W longitude and west of a line projected 122.43°W longitude in Rosario Strait is open effective immediately, until further notice.
 - (c) The waters of south Lopez Sound (the portion of Catch Area 22A south of a line projected east and west from the northern tip of Trump Island) will open at 12:00 a.m. on July 10, 2021.
 - (d) The remaining portion of Shrimp Management Area 1B and Catch Areas 20B and 22A outside the area described in sections 4 (b, c) above is open effective immediately, until further notice.
 - (e) Catch Area 21A (north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island) will open at 12:00 a.m. on July 1, 2021.
 - (f) Catch Area 20A (west of a line from the southwest corner of Point Roberts to Sandy Point) will open at 12:00 a.m. on August 1, 2021
 - (g) Trawling is allowed only in waters deeper than 120 feet in Catch Area 20A.
- (5) All shrimp taken under this section must be sold to licensed Washington State wholesale fish dealers.

NEW SECTION

WAC 220-340-03000P Shellfish harvest logs.

Notwithstanding the provisions of WAC 220-340-030, effective immediately, until further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful for vessel operators engaged in commercial harvest of shrimp from Puget Sound with shellfish pot gear to fail to report their daily catch by text message, e-mail or FAX to WDFW by 10:00 a.m. the day after the shrimp are harvested. Text message and e-mail daily catch reports must be submitted to shrimp.report@dfw.wa.gov, and FAX reports must be transmitted to FAX number 360-302-3031. Daily catch reports must include the following information as it is recorded on the fish receiving ticket: fisher name, buyer name, pounds landed per shrimp species, catch area, date of harvest, date of sale, and complete fish ticket serial number, including the first alphanumeric

letter. If the fish receiving ticket is faxed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

REPEALERS

The following sections of Washington Administrative Code are repealed, effective immediately:

WAC 220-340-52000J Puget Sound shrimp pot and trawl fishery—season. (21-146)

WAC 220-340-03000N Shellfish harvest logs. (21-146)

Reasons for this finding: Permanent rules regulating State Commercial Shrimp Harvest in Puget Sound and the Strait of Juan de Fuca require adoption of harvest seasons contained in this emergency rule. This emergency rule:

- (1) Closes Shellfish Management Areas 1, 2E, 2W, 3, and Marine Fish/Shellfish Catch Area 26D to commercial spot shrimp pot harvest effective immediately.
- (2) Closes Shrimp Management Area 2E to all commercial shrimp harvest.
- (3) Defines the shrimp management areas and Regions open to spot and non-spot commercial harvest.
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