PROPOSED RULE MAKING

CR-102 (June 2004)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Washington Department of Fish and Wildlife

☒ **Preproposal Statement of Inquiry was filed as WSR** 11-18-072 on 9/6/11
or
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject)
WAC 220-56-350, Clams other than razor clams, mussels – Areas and seasons; and
WAC 220-56-380, Oysters – Areas and seasons.

Hearing location(s):
Natural Resources Building, Room 172
1111 Washington St., SE
Olympia, WA 98504

Date: February 3-4, 2012 Time: 8:30 a.m.

Submit written comments to:
Name: Lori Preuss, Rules Coordinator
Address: 600 Capitol Way N.
Olympia WA 98501-1091

E-mail: Lori.Preuss@dfw.wa.gov
Fax: (360) 902-2155 by (date) January 25, 2012

Assistance for persons with disabilities: Contact
Tami Lininger by January 25, 2012
TTY (360) 902-2207 or (360) 902-2267

Date of intended adoption: March 9-10, 2012
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
An analysis of clam and oyster survey data, sport harvest projections, and negotiations affecting intertidal treaty and non-treaty fisheries allows for recreational clam and oyster seasons to be opened or extended on some public beaches and closed or the seasons shortened on other public beaches. This proposal reflects those openings and closures.

Reasons supporting proposal: These amendments will perpetuate shellfish resources while maximizing recreational fishing opportunity and protecting public health.

Statutory authority for adoption: RCWs 77.04.012 and 77.12.047

Statute being implemented: RCWs 77.04.012 and 77.12.047

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

DATE
December 20, 2011

NAME (type or print)
Lori Preuss

SIGNATURE
Lori Preuss

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 20, 2011
TIME: 11:33 AM

WSR 12-01-090

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None.

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Richard Childers	1000 Point Whitney Rd., Brinnon, WA 98320	(360) 586-1498
Implementation....	James Scott	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2736
Enforcement.....	Bruce Bjork	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2373

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No. Explain why no statement was prepared.

This rule only affects recreational shellfishers.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

☒ No: Please explain: This proposal does not involve hydraulics.

AMENDATORY SECTION (Amending Order 11-66, filed 4/19/11, effective 5/20/11)

WAC 220-56-350 Clams other than razor clams, mussels--Areas and seasons. A person can take, dig for, and possess clams and mussels for personal use on Puget Sound the entire year except from public tidelands at the beaches listed below, which are closed unless otherwise provided.

(1) Ala Spit: Open May 1 through May 31.

(2) Alki Park: Closed the entire year.

(3) Alki Point: Closed the entire year.

(4) Bay View State Park: Closed the entire year.

(5) Belfair State Park: Open January 1 through December 31.

(6) Brown's Point Lighthouse: Closed the entire year.

(7) Cama Beach State Park: Closed the entire year.

(8) Camano Island State Park: Closed the entire year.

(9) Chuckanut Bay: Closed the entire year.

(10) Coupeville: Closed the entire year.

(11) Dash Point State Park: Closed the entire year.

(12) Dave Mackie County Park: Closed the entire year.

(13) Des Moines City Park: Closed the entire year.

(14) Discovery Park: Closed the entire year.

(15) DNR-79: Closed the entire year.

(16) DNR-142: Closed the entire year.

(17) DNR-144 (Sleeper): Closed the entire year.

(18) Dockton County Park: Closed the entire year.

(19) Dosewallips State Park: Open March 1 through ((~~July~~)) October 31 only in area defined by boundary markers and signs posted on the beach.

(20) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands - Open May 15 through September 30.

(21) Eagle Creek: Open July 1 through July 31.

(22) East San de Fuca: Closed the entire year.

(23) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open ((~~April~~)) May 15 through ((~~July 31~~)) September 30.

(24) Fort Ward State Park: Closed the entire year.

(25) Freeland County Park: Closed the entire year.

(26) Frye Cove County Park: Open January 1 through May 15.

(27) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.

(28) Gertrude Island - All tidelands at Gertrude Island closed the entire year.

(29) Golden Gardens: Closed the entire year.

(30) Graveyard Spit: Closed the entire year.

(31) Harrington Beach: Closed the entire year.

(32) Hoodsport: Tidelands at Hoodsport Salmon Hatchery are closed the entire year.

(33) Hope Island State Park (South Puget Sound): Open May 1 through May 31.

(34) Howarth Park: Closed the entire year.

(35) Illahee State Park: Open April 1 through July 31.

(36) Kayak Point County Park: Closed the entire year.

(37) Kitsap Memorial State Park: ((~~Open May 15 through June 30.~~)) Closed the entire year.

(38) Kopachuck State Park: Open June 1 through July 31.

(39) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

(40) Lincoln Park: Closed the entire year.

(41) Lions Park (Bremerton): Closed the entire year.

(42) Little Clam Bay: Closed the entire year.

(43) Lower Roto Vista Park: Closed the entire year.

(44) Manchester State Park: Closed the entire year.

(45) McNeil Island - All tidelands on McNeil Island are closed the entire year.

(46) Meadowdale County Park: Closed the entire year.

(47) Mee-Kwa-Mooks Park: Closed the entire year.

(48) Monroe Landing: Closed the entire year.

(49) Mukilteo State Park - Closed the entire year.

(50) Mystery Bay State Park: Open October 1 through April 30.

(51) Nisqually National Wildlife Refuge: Closed the entire year.

(52) North Beach County Park: Closed the entire year.

(53) North Fort Lewis: Closed the entire year.

(54) North Point Hudson: Closed the entire year.

(55) Northeast Cultus Bay: Closed the entire year.

(56) Oak Bay County Park: Open May 1 through July 31.

(57) Oak Harbor City Park: Closed the entire year.

(58) Old Man House State Park: Closed the entire year.

(59) Olympia Shoal: Closed the entire year.

(60) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except as follows:

(a) North Bay: State-owned oyster reserves open the entire year.

(b) Oakland Bay: State-owned oyster reserves open the entire year except in areas defined by boundary markers and signs posted on the beach.

(c) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

(61) Penrose Point State Park: Open March 1 through May ((~~31~~)) 15.

(62) Picnic Point County Park: Closed the entire year.

(63) Pitship Point: Closed the entire year.

(64) Pitt Island - All tidelands on Pitt Island are closed the entire year.

(65) Pleasant Harbor State Park: Closed the entire year.

(66) Point Whitney (excluding Point Whitney Lagoon): Open March ((~~15~~)) 1 through ((~~April 30~~)) March 31.

(67) Point Whitney Lagoon: Open ((~~March~~)) April 1 through ((~~March 31~~)) April 30.

(68) Port Angeles Coast Guard: Closed the entire year.

(69) Port Angeles Harbor: Closed the entire year.

(70) Port Gardner: Closed the entire year.

(71) Port Townsend Ship Canal/Portage Canal: Open January 1 through July 31.

(72) Post Point: Closed the entire year.

(73) Potlatch DNR tidelands: Open April 1 through ((~~August 15~~)) June 30.

(74) Potlatch State Park: Open April 1 through ((~~August 15~~)) June 30.

(75) Priest Point County Park: Closed the entire year.

(76) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

(77) Quilcene Bay Tidelands - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year, except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset only.

(78) Reid Harbor - South Beach: Closed the entire year.

(79) Retsil: Closed the entire year.

(80) Richmond Beach Saltwater Park: Closed the entire year.

(81) Saltwater State Park: Closed the entire year.

(82) Samish Beach: Closed the entire year.

(83) Scenic Beach State Park: Closed the entire year.

(84) Seahurst County Park: Closed the entire year.

(85) Semiahmoo: Closed the entire year.

(86) Semiahmoo County Park: Closed the entire year.

(87) Sequim Bay State Park - Open May 1 through June 30.

(88) Shine Tidelands State Park: Open January 1 through May 15.

(89) Silverdale Waterfront Park: Closed the entire year.

(90) Sinclair Inlet: Closed the entire year.

(91) Skagit Wildlife Area: Closed the entire year.

(92) South Carkeek Park: Closed the entire year.

(93) South Gordon Point: Closed the entire year.

(94) South Indian Island County Park: Open ((~~April 1~~)) May 15 through ((~~July~~)) August 31.

(95) South Mukilteo Park: Closed the entire year.

(96) South Oro Bay: Closed the entire year.

(97) South Point Wilson (Port Townsend): Closed the entire year.

(98) Southworth Ferry Dock: Closed the entire year.

(99) Spencer Spit State Park: Open March 1 through July 31.

(100) Suquamish (Old Man House): Closed the entire year.

(101) Taylor Bay: Closed the entire year.

(102) Triton Cove Tidelands: Open June 1 through August 31.

(103) Twanoh State Park: Open ((~~July 15~~)) August 1 through September 30.

(104) Walker County Park: Closed the entire year.

(105) West Dewatto: DNR Beach 44A open August 1 through September 30.

(106) West Pass Access: Closed the entire year.

(107) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

(108) Wolfe Property State Park: Open January 1 through May 15.

(109) Woodard Bay: Closed the entire year.

A person can take, dig for, and possess clams, cockles, borers, and mussels, not including razor clams, for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

A person can take, dig for, and possess clams, cockles, borers, and mussels, not including razor clams, for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 11-66, filed 4/19/11, effective 5/20/11)

WAC 220-56-380 Oysters--Areas and seasons. A person can take and possess oysters for personal use from public tidelands the entire year except from public tidelands at the beaches listed below, which are closed unless otherwise provided.

(1) Ala Spit: Open May 1 through May 31.

(2) Alki Park: Closed the entire year.

(3) Alki Point: Closed the entire year.

(4) Bangor: Closed the entire year.

(5) Bay View State Park: Closed the entire year.

(6) Brown's Point Lighthouse: Closed the entire year.

(7) Cama Beach State Park: Closed the entire year.

(8) Camano Island State Park: Closed the entire year.

(9) Chuckanut: Closed the entire year.

(10) Coupeville: Closed the entire year.

(11) Dash Point State Park: Closed the entire year.

(12) Dave Mackie County Park: Closed the entire year.

(13) Des Moines City Park: Closed the entire year.

(14) Discovery Park: Closed the entire year.

(15) DNR-79: Closed the entire year.

(16) DNR-142: Closed the entire year.

(17) DNR 144 (Sleeper): Closed the entire year.

(18) Dockton County Park: Closed the entire year.

(19) Dungeness Spit/National Wildlife Refuge: Open May 15 - September 30.

(20) East San de Fuca: Closed the entire year.

(21) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open ((~~April~~)) May 15 through ((~~July 31~~)) September 30.

(22) Fort Ward State Park: Closed the entire year.

(23) Freeland County Park: Closed the entire year.

(24) Frye Cove County Park: Open January 1 through May 15.

(25) Golden Gardens: Closed the entire year.

(26) Graveyard Spit: Closed the entire year.

(27) Harrington Beach: Closed the entire year.

(28) Hoodsport: Tidelands at the Hoodsport Salmon Hatchery are closed the entire year.

(29) Hope Island State Park (South Puget Sound): Open May 1 through May 31.

(30) Howarth Park: Closed the entire year.

(31) Illahee State Park: Open April 1 through July 31.

(32) Kayak Point County Park: Closed the entire year.

(33) Kitsap Memorial State Park: ((~~Open May 15 through June 30.~~)) Closed the entire year.

(34) Kopachuck State Park: Open March 1 through July 31.

(35) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

(36) Lincoln Park: Closed the entire year.

(37) Lions Park (Bremerton): Closed the entire year.

(38) Little Clam Bay: Closed the entire year.

(39) Lower Roto Vista Park: Closed the entire year.

(40) Manchester State Park: Closed the entire year.

(41) Meadowdale County Park: Closed the entire year.

(42) Mee-Kwa-Mooks Park: Closed the entire year.

(43) Monroe Landing: Closed the entire year.

(44) Mukilteo State Park: Closed the entire year.

(45) Mystery Bay State Park: Open October 1 through April 30.

(46) Nisqually National Wildlife Refuge: Closed the entire year.

(47) North Beach County Park: Closed the entire year.

(48) North Fort Lewis: Closed the entire year.

(49) North Point Hudson: Closed the entire year.

(50) Northeast Cultus Bay: Closed the entire year.

(51) Oak Bay County Park: Open May 1 through July 31.

(52) Oak Harbor Beach Park: Closed the entire year.

(53) Oak Harbor City Park: Closed the entire year.

(54) Old Man House State Park: Closed the entire year.

(55) Olympia Shoal: Closed the entire year.

(56) Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

(a) Oakland Bay - State-owned oyster reserves open the entire years except in areas defined by boundary markers and signs posted on the beach.

(b) North Bay - State-owned reserves open the entire year.

(c) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

(57) Penrose Point State Park: Open March 1 through May ((~~31~~)) 15.

(58) Picnic Point: Closed the entire year.

(59) Pitt Island: Closed the entire year.

(60) Pleasant Harbor State Park: Closed the entire year.

(61) Point Whitney tidelands (excluding Point Whitney Lagoon): Open January 1 through June 30.

(62) Port Angeles Coast Guard: Closed the entire year.

((~~(62)~~)) (63) Port Angeles Harbor: Closed the entire year.

((~~(63)~~)) (64) Port Gardner: Closed the entire year.

((~~(64)~~)) (65) Port Townsend Ship Canal/Portage Canal: Open January 1 through July 31.

((~~(65)~~)) (66) Post Point: Closed the entire year.

((~~(66)~~)) (67) Potlatch DNR Tidelands: Open April 1 through ((~~August 15~~)) June 30.

((~~(67)~~)) (68) Potlatch State Park: Open April 1 through ((~~August 15~~)) June 30.

((~~(68)~~)) (69) Priest Point County Park: Closed the entire year.

((~~(69)~~)) (70) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

((~~(70)~~)) (71) Quilcene Bay Tidelands - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset, only.

((~~(71)~~)) (72) Reid Harbor - South Beach: Closed the entire year.

((~~(72)~~)) (73) Retsil: Closed the entire year.

((~~(73)~~)) (74) Richmond Beach Saltwater Park: Closed the entire year.

((~~(74)~~)) (75) Saltwater State Park: Closed the entire year.

((~~(75)~~)) (76) Samish Beach: Closed the entire year.

((~~(76)~~)) (77) Seahurst County Park: Closed the entire year.

((~~(77)~~)) (78) Scenic Beach State Park: Closed the entire year.

((~~(78)~~)) (79) Semiahmoo: Closed the entire year.

((~~(79)~~)) (80) Semiahmoo County Park: Closed the entire year.

((~~(80)~~)) (81) Shine Tidelands State Park: Open January 1 through May 15.

((~~(81)~~)) (82) Silverdale Waterfront Park: Closed the entire year.

((~~(82)~~)) (83) Sinclair Inlet: Closed the entire year.

((~~(83)~~)) (84) Skagit Wildlife Area: Closed the entire year.

((~~(84)~~)) (85) South Carkeek Park: Closed the entire year.

((~~(85)~~)) (86) South Gordon Point: Closed the entire year.

((~~(86)~~)) (87) South Indian Island County Park: Open ((~~April 1~~)) May 15 through ((~~July~~)) August 31.

((~~(87)~~)) (88) South Mukilteo Park: Closed the entire year.

((~~(88)~~)) (89) South Oro Bay: Closed the entire year.

((~~(89)~~)) (90) South Point Wilson (Port Townsend): Closed the entire year.

((~~(90)~~)) (91) Southworth Ferry Dock: Closed the entire year.

((~~(91)~~)) (92) Spencer Spit State Park: Open March 1 through

July 31.

((~~(92)~~)) (93) Suquamish (Old Man House): Closed the entire year.

((~~(93)~~)) (94) Taylor Bay: Closed the entire year.

((~~(94)~~)) (95) Walker County Park: Closed the entire year.

((~~(95)~~)) (96) West Pass Access: Closed the entire year.

((~~(96)~~)) (97) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and the Nahcotta Tidelands Interpretive Site are open only between boundary markers and posted signs.

((~~(97)~~)) (98) Woodard Bay: Closed the entire year.

((~~(98)~~)) (99) Wolfe Property State Park: Open January 1 through May 15.