



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 15-445

- Immediately upon filing.
- Later (specify January 1, 2016)

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

- Yes
 - No
- If Yes, explain:

Purpose: Amend recreational fishing rules for hardshell clams and oysters

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 220-56-350, WAC 220-56-380
 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.
- 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: (See Attachment)

Date adopted: December 17, 2015

NAME (TYPE OR PRINT)

J W Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 17, 2015

TIME: 4:00 PM

WSR 16-01-117

(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:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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New	_____	Amended	_____	Repealed	_____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

New	<u>2</u>	Amended	_____	Repealed	<u>2</u>
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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	_____

NEW SECTION

WAC 220-56-35000F Clams other than razor clams – Areas and seasons.

Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Belfair State Park: January 1, 2016, until further notice.
- (2) Drayton West: All public tidelands of Drayton Harbor are closed year-round, except tidelands identified as conditionally approved by the Department of Health and defined by boundary markers and signs posted on the beach are open February 1, 2016, until further notice.
- (3) Freeland County Park: Open March 1, 2016, until further notice.
- (4) Point Whitney Lagoon: Open January 1, 2016, until further notice.
- (5) Point Whitney Tidelands (excluding Point Whitney Lagoon): Open January 1 through March 15 only.

NEW SECTION

WAC 220-56-38000K Oysters – Areas and seasons.

Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to take and possess oysters taken for personal use from the following public tidelands, except during the open periods specified herein:

- (1) Drayton West: All public tidelands of Drayton Harbor are closed year-round except tidelands identified as conditionally approved by the Department of Health and defined by boundary markers and signs posted on the beach are open February 1, 2016, until further notice.
- (2) Freeland County Park: Open March 1, 2016, until further notice.

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

(x) 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 years 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: Increases in clam biomass at Belfair State Park will support a year-round season. Increases in clam biomass at Point Whitney Tidelands and Point Whitney Lagoon will support 2.5 and 4 month seasons. Drayton West is a portion of Drayton Harbor that Washington Department of Health has approved for recreational harvest, and the season has been set to coordinate with DOH conditional closures in the area. Recreational harvest and biomass surveys at Freeland County Park indicate it can support a 2.5 month long season; the timing of this season has been coordinated with DOH and Island County Health Department. The oyster seasons at Freeland County Park and Drayton West should coincide with the clam seasons on those beaches. There is insufficient time to promulgate permanent rules.

(15-445, 12/17/2015)