



# 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 13-16-074 on 8/6/13

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: The department proposes changes to WAC 220-72-011, Oyster Drill Restricted Shellfish Areas -- Puget Sound.

### Hearing location(s):

Natural Resources Building, Room 172  
1111 Washington St SE  
Olympia WA 98504

Date: November 8-9, 2013 Time: 8:30 a.m.

### Submit written comments to:

Name: Joanna Eide, Rules Coordinator  
Address: 600 Capitol Way N.  
Olympia WA 98501-1091

e-mail Joanna.Eide@dfw.wa.gov

fax (360)902-2403 by (date) October 31, 2013

Assistance for persons with disabilities: Contact:

Tami Lininger by October 31, 2013

TTY (800) 833-6388 or (360) 902-2267

Date of intended adoption: December 6-7, 2013

(Note: This is NOT the effective date)

### Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The department must amend as needed the rules designating tideland areas infested with Japanese oyster drills to protect un-infested tidelands from the transfer of shellfish harboring oyster drills or oyster drill eggs. Surveys indicate that Japanese oyster drills have expanded their range in Birch Bay Park to include previously un-infested tidelands. The department also seeks to correct several typographic errors in the latitude/longitude descriptions of current drill-infested areas, and to clarify existing boundaries. These changes will help perpetuate shellfish resources by minimizing the chances of Japanese oyster drills spreading to un-infested areas through shellfish transfers.

Statutory authority for adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Statute being implemented: RCW 77.04.012, 77.04.013, 77.04.55, 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:

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: **October 02, 2013**

TIME: **9:52 AM**

**WSR 13-20-133**

### DATE

October 2, 2013

### NAME

Joanna Eide

### SIGNATURE

### TITLE

Administrative Regulations Analyst/Rules Coordinator

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None.

**Name of proponent:** 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) 302-3030
Implementation....	James Scott	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2736
Enforcement.....	Chief Steven Crown	1111 Washington Street SE, Olympia, WA 98504	(360) 902-2923

**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.

Most proposed changes are typographical to correct errors to latitude/longitude of existing drill areas. The new infested area, Birch Bay State Park, is a state-owned tideland; therefore no private businesses are affected.

**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.

**WAC 220-72-011 Oyster drill restricted shellfish areas—Puget Sound.** All waters, tidelands, shellfish handling facilities and equipment (including aquaculture vehicles and vessels) operated in conjunction with said waters and tidelands of Puget Sound within the following areas are designated as oyster drill restricted shellfish areas:

(1) Dungeness Bay—inside and bounded westerly of a line projected from the most easterly tip of Dungeness Spit true-south to the mainland.

(2) Drayton Harbor—inside and southerly of a line projected from the north most tip of Semiahmoo Spit to where the International Boundary line intersects the mainland.

(3) Lummi Bay—inside the Lummi Dike and inside and bounded by a line projected from:

48°46'32" N. Lat.

122°40'00" W. Long.; thence to

48°45'55" N. Lat.

122°40'00" W. Long.; thence to

48°45'55" N. Lat.

122°39'12" W. Long.; then northerly along the beach to the point of origin.

(4) Samish Bay—inside and easterly of a line starting at the most westerly tip of Governor's Point and projected in a southerly direction to the most westerly tip of William Point on Samish Island.

(5) Padilla Bay—easterly (including the Swinomish channel) of a line starting at the most westerly tip of William Point on Samish Island and projected southerly to the most northerly tip of March Point on Fidalgo Island.

(6) Similk and Skagit Bays—northerly of a line projected across Skagit Bay following latitude 48°20' N. and easterly of the Deception Pass bridge.

(7) Liberty Bay—inside and westerly of a line projected true south from the most southerly point at Tower Point.

(8) Dyes Inlet—inside and northerly of a line projected true east from the most northerly tip of Rocky Point to the mainland.

(9) Carr Inlet—

(a) Burley Lagoon—inside and northerly of the Purdy bridge.

(b) Minter Creek—inside and westerly of a line projected from the east shore at 122°41'00" W. Long. true south to 47°21'00" N. Lat., then true west to shore.

(10) Case Inlet—

(a) Rocky Bay and North Bay—northerly of a line projected across Case Inlet following latitude 47°20'44" N.

(b) Vaughn Bay—easterly of a line projected true north from the most northerly point of the southern spit at the mouth of Vaughn Bay to the mainland on the north shore.

(11) Hammersley Inlet and Oakland Bay—inside, westerly and northerly of a line starting at the most southeasterly point of Munson Point and projected in a southeasterly direction to Eagle Point.

(12) Totten Inlet, Oyster Bay and Little Skookum Inlet—inside and southerly of a line starting at the most southeasterly point on Windy Point and projected northeasterly to the most northerly tip of Sandy Point (i.e., the southern base of the Steamboat Island Bridge).

(13) Eld Inlet—

(a) Mud Bay—inside and westerly of a line projected from the most easterly point of Flapjack Point and projected true south to the mainland.

(b) Sanderson Harbor—lying inside and westerly of a line starting at the most northern point on Sanderson Spit and projected northeasterly to the mainland.

(14) Nisqually Flats—inside and southerly of a line starting near the DuPont Dock on the east shore at 47°07'00" N. Lat. and projected true west to the mainland.

(15) Hood Canal—

(a) Quilcene Bay—inside, northerly and easterly of a line starting at the Port of Port Townsend boat ramp north of Coast Seafoods company shellfish hatchery projected easterly to a point at 48°48'10" N. Lat., 122°51'30" W. Long. and then projected southeasterly to the most westerly tip of Fisherman's Point.

(b) Tarboo Bay—inside, northerly and easterly of a line starting at the most northerly tip of Long Spit and then projected true west to the mainland.

(c) The Great Bend to Lynch Cove—inside and bounded easterly by a line projected from the western most point at Musqueti Point true west to the mainland.

(d) Hamma Hamma Flats and Jorsted Creek—inside and westerly of a line projected from:

47°33'15" N. Lat.

123°01'42" W. Long.; thence to

47°32'54" N. Lat.

123°01'06" W. Long.; thence to

47°32'54" N. Lat.

123°01'48" W. Long.; thence to

47°31'00" N. Lat.

((~~123°01'54"~~)) 123°01'48" W. Long.; then true west to shore.

(e) Dosewallips Delta—inside and westerly of lines projected from:

47°41'03" N. Lat.

((~~122°53'45"~~)) 122°53'57.5" W. Long.; thence to

47°41'03" N. Lat.

122°52'24" W. Long.; thence to

((~~47°42'20.6"~~)) 47°42'43.5" N. Lat.

122°52'24" W. Long.; thence to

((~~47°42'20.6"~~)) 47°42'43.5" N. Lat.

((~~122°52'39"~~)) 122°53'10" W. Long.

(f) Point Whitney (including all portions of seawater ponds, lagoon, and shellfish cultivation facilities)—inside and ((~~westerly~~)) southerly of lines projected from:

((~~47°45'43.7"~~)) 47°45'43" N. Lat.

((~~122°51'02"~~)) 122°51'4.7" W. Long.; thence to

((~~45°45'56"~~)) 47°45'52" N. Lat.

((~~122°51'02"~~)) 122°51'4.7" W. Long.; thence to

((~~45°45'56"~~)) 47°45'52" N. Lat.

((~~122°51'12"~~)) 122°51'18" W. Long.; thence to

47°45'45" N. Lat.

((~~122°51'12"~~)) 122°51'18" W. Long.

(g) Duckabush River Mouth—inside and westerly of a line projected from:

47°38'46" N. Lat.

122°54'08" W. Long.; thence to

47°37'55" N. Lat.

122°56'25" W. Long.

(16) Henderson Inlet-South Bay-inside and southerly of a line commencing at a point on the west shore of Henderson Inlet where the south line of Section 17, Twp 19 N R 1 WWM intersects the shoreline, thence projected true east across Henderson Inlet to the east shoreline.

(17) Birch Bay-inside and bounded by a line projected from:

48°53'59" N. Lat.

122°46'33.9" W. Long.; thence northeasterly along the shoreline to

48°54'37.7" N. Lat.

122°45'7.65" W. Long.; thence to

48°54'56" N. Lat.

122°45'31" W. Long.; thence to

48°54'10" N. Lat.

122°46'53.54" W. Long.