



# 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 17-39**

- Immediately upon filing.
- Later (specify March 1, 2017)

**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Repealed:  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:** February 28, 2017

**NAME (TYPE OR PRINT)**  
J W Unsworth

**SIGNATURE**

**TITLE**  
Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: February 28, 2017**  
**TIME: 4:06 PM**

**WSR 17-06-065**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted in the agency's own initiative:**

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	Amended	_____	Repealed	_____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

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## **NEW SECTION**

### **WAC 220-56-35000J 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) Oyster Reserves – North Bay: State-owned oyster reserves and contiguous state-owned tidelands south and east of the powerline crossing are closed until further notice.
- (2) Penrose Point State Park: Open immediately through April 30 only.
- (3) Port Gamble Heritage Park Tidelands: Open until further notice.
- (4) Potlatch DNR tidelands: Open April 1, 2017 until further notice.
- (5) Potlatch State Park: Open April 1, 2017, until further notice.
- (6) Quilcene Tidelands: Open April 1, 2017, until further notice, with no restrictions on hours of harvest.

## **NEW SECTION**

### **WAC 220-56-38000P 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) Oyster Reserves – North Bay: State-owned oyster reserves and contiguous state-owned tidelands south and east of the powerline crossing are closed until further notice.
- (2) Penrose Point State Park: Open immediately through April 30, 2017.
- (3) Port Gamble Heritage Park Tidelands: Open until further notice.
- (4) Potlatch DNR tidelands: Open April 1, 2017, until further notice.
- (5) Potlatch State Park: Open April 1, 2017, until further notice.
- (6) Quilcene Tidelands: Open April 1, 2017, until further notice, with no restrictions on hours of harvest.

## Attachment

Surveys at Indian Island County Park, Potlatch State Park, Potlatch DNR tidelands, Port Gamble Heritage Park and Twanoh State Park indicate that the clam population has increased, allowing for longer seasons. Surveys at North Bay indicate that the clam population has increased slightly but, but a shift in season timing is recommended to reduce user group conflicts and increased pressure on infrastructure at the access site. The existing hours of darkness harvest restriction at Quilcene Bay Tidelands is no longer necessary; there is no conservation or management need to limit the hours of harvest.

Oyster seasons should coincide with the clam seasons on these beaches. A shift in season timing is recommended for Oyster Reserves – North Bay to reduce user group conflicts and increased pressure on infrastructure at the access site. The existing hours of darkness harvest restriction at Quilcene Bay Tidelands is no longer necessary; there is no conservation or management need to limit the hours of harvest. There is insufficient time to promulgate permanent rules.