



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: June 03, 2020

TIME: 8:49 AM

WSR 20-12-101

Agency: Department of Fish and Wildlife (Order 20-94)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) June 8, 2020

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

- Yes No If Yes, explain:

Purpose: To reopen recreational clam, mussel, and oyster fisheries in Marine Areas 5-13 effective June 8, 2020, which were previously closed due to the COVID-19 situation and to comply with Governor Inslee's statewide proclamation to "stay home, stay healthy." Reopening these recreational fisheries is consistent with the Governor's proclamation amendment 20-25.2 for the partial reopening of outdoor recreational activities.

Public beaches listed in this rule will amend or extend seasons because clam, mussel, and oyster harvest was closed during usual seasons.

This rule returns Puget Sound (Marine Areas 5 through 13) clam, mussel, and oyster fisheries to permanent rules, unless otherwise amended. All recreational fish and shellfish fisheries in Marine Area 4 will remain closed until the expiration of this emergency rule or until further notice.

Citation of rules affected by this order:

- New:
- Repealed: WAC 220-330-010001
- Amended: WAC 220-330-010; WAC 220-330-110; WAC 220-330-140
- 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: This rule is needed to reopen Puget Sound recreational clam, mussel, and oyster harvesting opportunities in Marine Areas 5 through 13, effective June 8, 2020, pursuant to the Governor's Proclamation amendment 20-25.2, issued April 27, 2020, indicating that recreational activities including fishing may resume, when and where permitted. In addition, these openings have been coordinated with local and state health officials.

Due to the COVID-19 related closure of all clam, mussel, and oyster harvest from March 26 through June 8, 2020, the public beaches listed in this rule have amended or extended seasons because clams, mussels, and oysters were not harvested during their normal seasons. Sufficient amounts of clams, mussels, and oysters remain available for harvest in these areas to allow for the seasons listed.

The Governor's proclamation amendment also includes requirements to exclude gatherings with people who are not members of the same household and maintain social distancing for the continued protection of public health and safety. The fishery openings considered that requirement as a basis for the decision to re-open fisheries, but do not incorporate those social distance elements within the regulations themselves. While not imposed in WDFW's fishery rules, they are and remain, a requirement of the Governor's Proclamation. Failure to abide by those social distance requirements could result in increased health risks requiring future fishery closures.

All recreational fish and shellfish fisheries in Marine Area 4 remain closed until further notice, or until the rule expires on July 23, 2020, due to concerns of local and state health authorities.

There is insufficient time to adopt permanent rules.

**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 on the agency's own initiative:

New	3	Amended	___	Repealed	1
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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	___

Date Adopted: June 3, 2020

Name: Kelly Susewind

Title: Director

Signature:



NEW SECTION

WAC 220-330-01000J Shellfish—Daily limits.

Effective June 8, 2020 and until further notice, or until this expires on July 23, 2020 the following provisions of WAC 220-330-010, WAC 220-330-040, WAC 220-330-070, 220-330-090, 220-330-110, 220-330-140, and WAC 220-330-180, regarding all shellfish seasons in Marine Area 4 shall be as described below. All other provisions of WAC 220-330-010, WAC 220-330-040, WAC 220-330-070, 220-330-090, 220-330-110, 220-330-140, and WAC 220-330-180 not addressed herein, or unless otherwise amended, remain in effect:

It is unlawful to harvest or attempt to harvest shellfish in Marine Area 4.

NEW SECTION

WAC 220-330-11000J Clams other than razor clams, mussels – Areas and seasons

Notwithstanding the provisions of WAC 220-330-110, effective June 8, 2020, the following provisions of WAC 220-330-110 shall be as described below until further notice or until this emergency regulation expires on October 1, 2020. All other provisions of WAC 220-330-110 not addressed herein, or unless otherwise amended, remain in effect:

- (1) Ala Spit: All public tidelands of Ala Spit are open August 1 through August 31, 2020 only.
- (2) Belfair State Park: Open July 15, 2020 until further notice.
- (3) Dosewallips State Park: The area defined by boundary markers and signs posted on the beach is open June 8 through September 30, 2020 only.
- (4) Eagle Creek: Open June 8 through September 15, 2020 only.
- (5) Frye Cove County Park: Open August 1 through August 31, 2020 only.
- (6) Hope Island State Park (South Puget Sound): Open August 1 through August 31, 2020 only.
- (7) Point Whitney Lagoon: Open June 8 through June 30, 2020 only.
- (8) Point Whitney Tidelands (excluding Point Whitney Lagoon): Open June 8 through June 30, 2020 only.
- (9) Port Gamble Heritage Park Tidelands: Open July 1, 2020 until further notice.
- (10) Potlatch DNR tidelands: Open June 8 through September 30, 2020 only.
- (11) Potlatch State Park: Open June 8 through September 30, 2020 only.
- (12) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open September 1 through September 30, 2020 only.
- (13) Sequim Bay State Park: Open June 8 through July 15, 2020 only.
- (14) Triton Cove Tidelands: Open June 8 through September 15, 2020 only.

NEW SECTION

WAC 220-330-14000H Oysters – Areas and seasons.

Notwithstanding the provisions of WAC 220-330-140, effective June 8, 2020, the following provisions of WAC 220-330-140 shall be as described below until further notice or until this emergency regulation

expires on October 1, 2020. All other provisions of WAC 220-330-140 not addressed herein, or unless otherwise amended, remain in effect:

- (1) Ala Spit: All public tidelands of Ala Spit are open August 1 through August 31, 2020 only.
- (2) Belfair State Park: Open July 15, 2020 until further notice.
- (3) Frye Cove County Park: Open August 1 through August 31, 2020 only.
- (4) Hope Island State Park (South Puget Sound): Open August 1 through August 31, 2020 only.
- (5) Point Whitney Lagoon: Open June 8 through August 31, 2020 only.
- (6) Point Whitney Tidelands (excluding Point Whitney Lagoon): Open June 8 through August 31, 2020 only.
- (7) Port Gamble Heritage Park Tidelands: Open July 1, 2020 until further notice.
- (8) Potlatch DNR tidelands: Open June 8 through September 30, 2020 only.
- (9) Potlatch State Park: Open June 8 through September 30, 2020 only.
- (10) Purdy Spit County Park: The southern shore of the spit from the boat ramp east to the southern utility tower near Purdy Bridge is open September 1 through September 30, 2020 only.
- (11) Sequim Bay State Park: Open June 8 through July 15, 2020 only.

REPEALER

The following section of the Washington Administrative Code is repealed effective June 8, 2020:

WAC 220-330-01000I Shellfish—Daily limits. (20-88)