



# 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: December 29, 2021  
TIME: 4:53 PM

WSR 22-02-038

**Agency:** Department of Fish and Wildlife (Order No. 21-282)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) January 1, 2022

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

- Yes
  - No
- If Yes, explain:

**Purpose:** Closes clam and oyster harvest on two beaches and clam harvest on one beach that are currently slated to open January 1 in permanent rule. This action will accommodate anticipated shifts away from January 1 start date for the 2022 seasons on these beaches, and to comply with court-mandated sharing arrangements. Permanent rules are currently underway; proposed 2022 seasons will be announced in early 2022.

**Citation of rules affected by this order:**

- New:
- Repealed:
- Amended: 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 ensure an orderly fishery and manage within court-ordered sharing requirements. It will close recreational clam and oyster harvesting opportunities at Belfair State Park and Port Gamble Heritage Park Tidelands and clam harvesting opportunities at Point Whitney Tidelands and Lagoon beginning January 1, 2022. Permanent rule currently has seasons at these beaches beginning on January 1, 2022. Proposed upcoming seasons for these beaches will be announced and set in early 2022. This rule will accommodate the anticipated shift of 2022 seasons away from a January 1, 2022 start date. Permanent rulemaking for 2022 clam and oyster seasons for these beaches is currently underway.

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 | ___ |
|-----|-----|---------|-----|----------|-----|

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


|     |   |         |     |          |     |
|-----|---|---------|-----|----------|-----|
| New | 2 | 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:**

|                                |     |     |         |     |          |     |
|--------------------------------|-----|-----|---------|-----|----------|-----|
| Negotiated rule making:        | New | ___ | Amended | ___ | Repealed | ___ |
| Pilot rule making:             | New | ___ | Amended | ___ | Repealed | ___ |
| Other alternative rule making: | New | ___ | Amended | ___ | Repealed | ___ |

|  |   |
|--|---|
| <b>Date Adopted:</b> December 29, 2021 | <b>Signature:</b><br> |
| <b>Name:</b> Kelly Susewind            |   |
| <b>Title:</b> Director                 |   |

## NEW SECTION

### **WAC 220-330-11000M Clams other than razor clams, mussels – Areas and seasons.**

Notwithstanding the provisions of WAC 220-330-110, effective January 1, 2022, until further notice, the following provisions of WAC 220-330-110 shall be as described below. All other provisions not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

- (1) Belfair State Park: Closed.
- (2) Point Whitney Tidelands and Point Whitney Lagoon: Closed.
- (3) Port Gamble Heritage Park Tidelands: Closed.

## NEW SECTION

### **WAC 220-330-14000K Oysters – Areas and seasons.**

Notwithstanding the provisions of WAC 220-330-140, effective January 1, 2022, until further notice, the following provisions of WAC 220-330-140 shall be as described below. All other provisions not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

- (1) Belfair State Park: Closed.
- (2) Port Gamble Heritage Park Tidelands: Closed.