

**Concise Explanatory Statement (CES)
2023 Recreational Clam and Oyster Seasons**

Rules amended as part of this rulemaking:

WAC 220-330-110, Clams other than razor clams, mussels – Areas and seasons; and
WAC 220-330-140, Oysters – Areas and seasons; and
WAC 220-340-130, Oyster drill restricted shellfish areas—Puget Sound; and
WAC 220-340-170, European green crab (*Carcinus maenas*) restricted shellfish areas.

Rules repealed as part of this rulemaking:

None.

Rules created as part of this rulemaking:

None.

1. Background/Summary of Project:

The department must annually amend recreational clam and oyster season rules on some public tidelands. Such amendments are designed to perpetuate shellfish resources while maximizing recreational fishing opportunity. Additional clerical changes that do not affect nor alter current regulations are included as part of this rulemaking. The department is proposing to designate one new Oyster Drill Restricted Area following the discovery of invasive oyster drills at a new location in Scow Bay, Kilisut Harbor (Admiralty Inlet). Several clerical changes that do not affect nor alter current regulations are included in this rulemaking. Additionally, the department is proposing to update its European Green Crab Restricted Areas designation to reflect the current known status of this invasive species. This update will add the Washington Coast, Columbia River estuary, Strait of Juan de Fuca, San Juan Islands/North Puget Sound, and Hood Canal to the European Green Crab Restricted Area designation.

2. Reasons for adopting the rule:

For 2023, in response to shellfish population changes, shifts in recreational effort, conservation issues, accounting for the fluctuating annual tidal calendar, and negotiations with Treaty tribes and other state agencies, staff are recommending clam and oyster season changes to fourteen public beaches. Of the proposed changes, nine beaches will feature longer clam and oyster seasons and one will have a longer oyster season compared to 2022. Three beaches will have shorter clam and oyster seasons and one beach will have a shorter clam season. Two administrative name changes that do not affect seasons are proposed in the areas and seasons WACs. Scow Bay in Kilisut Harbor, Admiralty Inlet was recently found to have a non-native oyster drill infestation and as such, should be designated as a Restricted Area to limit spread of this harmful invasive. Clerical changes to update coordinates for three Oyster Drill Restricted Areas are proposed. With the discovery of invasives European green crab in numerous

locations on the Washington coast, within the Columbia River estuary, Strait of Juan de Fuca, San Juan Islands/North Puget Sound, and Hood Canal, these areas are added to the European Green Crab Restricted Area designation. The current description in permanent WAC is out of date following the spread of this invasive species, and WDFW proposes to update it to aid in the containment of European green crab.

Differences between the text of the proposed rule and the text of the rule as adopted:

None.

3. Summary of comments and WDFW response and consideration for the comments:

Season change recommendations were coordinated where appropriate with Washington State Department of Health and Washington State Parks staff. All season change recommendations and oyster drill and European green crab Restricted Areas proposals were announced on the agency rulemaking web site. Announcements of, and links to the rulemaking project were also posted on additional agency web pages. A recreational fishing list serv was notified of the project, and a public engagement website was created to encourage public input. Additionally, the European Green Crab Restricted Area update was presented on at two stakeholder meetings in August and September of 2022 and discussed in co-management meetings in 2022. A public hearing was held on February 21, 2023. No public testimony was given regarding the rule changes.

One non-relevant written comment was received. The comment was regarding razor clams, a fishery unrelated to these rules proposals, and WDFW staff forwarded the comment to relevant staff. Of note, WDFW received public input during rulemaking in 2022 asking for a shift in harvesting opportunity in East Jefferson County away from late summer seasons to early spring seasons to help reduce risk of biotoxin closures during the scheduled seasons. Two of the season change proposals for 2023 are responsive to this input and WDFW has proposed scheduling those seasons in Spring rather than Fall to address this concern, and given an increase in available resources on those beaches since 2022 rulemaking.