



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: February 14, 2023
TIME: 8:14 AM

WSR 23-05-072

Agency: Department of Fish and Wildlife (Order 23-24)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) March 1, 2023

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

- Yes No If Yes, explain:

Purpose: The purpose of this emergency rule is to close clam, mussel, and oyster seasons on Penrose Point State Park beaches.

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- Repealed: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: The 2023 recreational clam, mussel, and oyster seasons are set in permanent rule-making that is currently ongoing. Some beaches must be closed via emergency regulation because permanent rules won't become effective in time to update seasons currently described in permanent WAC. Therefore, WDFW is closing Penrose State Park to the harvest of clams, mussels, and oysters immediately. This change will be reflected in permanent rulemaking for 2023. Immediate adoption of this rule is necessary for the preservation of the public health, safety, or general welfare. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to public interest. 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 ____

Date Adopted: February 13, 2023
Name: Kelly Susewind
Title: Director

Signature:


NEW SECTION

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

Effective March 1, through April 30, 2023, the provisions of WAC 220-330-110 regarding personal-use clam and mussel and seasons for Penrose Point State Park beaches shall be modified as described below. All other provisions of WAC 220-330-110 not addressed herein remain in effect unless otherwise amended by emergency rule:

Penrose Point State Park: Closed.

NEW SECTION

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

Effective March 1, through April 30, 2023, the provisions of WAC 220-330-140 regarding personal-use oyster seasons for Penrose Point State Park beaches shall be modified as described below. All other provisions of WAC 220-330-140 not addressed herein remain in effect unless otherwise amended by emergency rule:

Penrose Point State Park: Closed.