

**WAC 220-360-130 Nonstate lands commercial wild clams, mussels, and oysters—Application requirements—Notification requirements—Incidental take prohibited.** (1) A person making application for a wild clam, mussel, and oyster trial fishery permit must provide the following for each site:

(a) Documentation of ownership interest in or contractual right to harvest from the lands from which the wild clams, mussels, or oysters are to be harvested.

(b) A harvest site certificate issued by the state department of health for the lands from which the wild clams, mussels, or oysters are to be harvested.

(2) A copy of the application for a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit will be provided to the affected tribes by the department.

(3) If a person registers nonstate lands as an aquatic farm, a copy of the aquatic farm registration will be provided to the affected tribes by the department.

(4) Prior to conducting harvest activities under a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit, the permit holder must fulfill the following requirements:

(a) Provide a copy of the notice required to be given to affected tribes under the Stipulation and Order Amending Shellfish Implementation Plan, United States v. Washington, Case No. C70-9214, W.D.Wa., if such notice is required.

(b) Clearly and visibly mark with stakes and/or buoys the property boundaries of the nonstate lands to be harvested, using standard marking methods.

(c) Failure to comply with the requirements of this subsection invalidates the emerging commercial fishery license issued for the harvest of wild clams, mussels, and oysters.

(5) A nonstate lands commercial wild clam, mussel, and oyster trial fishery permit allows harvest only of clams, mussels, and oysters, and it is unlawful to harvest any other shellfish or any fin fish.

(6) It is unlawful to commercially harvest wild clams, mussels, or oysters without a valid emerging commercial fishery license and a nonstate lands commercial wild clam, mussel, and oyster trial fishery permit valid for the lands from which harvest is occurring.

[Statutory Authority: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047. WSR 17-05-112 (Order 17-04), recodified as § 220-360-130, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 77.12.047. WSR 06-04-015 (Order 06-08), § 220-88D-040, filed 1/22/06, effective 2/22/06.]