



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Washington Department of Fish and Wildlife

Emergency Rule Only

Effective date of rule:

Emergency Rules 15-345

- Immediately upon filing.
- Later (specify) _____

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

- Yes
 - No
- If Yes, explain:

Purpose: Amend authorized work times for suction dredging in the Gold and Fish Rules for Mineral Prospecting and Placer Mining

Citation of existing rules affected by this order:

Repealed: WAC 220-660-30000E
 Amended: WAC 220-660-300
 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.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:

See Attachment A

Date adopted: September 17, 2015

NAME (TYPE OR PRINT)

J W Unsworth

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: September 17, 2015

TIME: 12:18 PM

WSR 15-19-097

(COMPLETE REVERSE SIDE)

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____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 in the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	<u>1</u>
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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	_____

NEW SECTION

WAC 220-660-30000F Mineral prospecting

Notwithstanding the provisions of WAC 220-660-300, effective immediately until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended, all permanent rules remain in effect:

Chelan County

Wenatchee River from mouth to the Icicle River Road Bridge: Closed to suction dredging.

Icicle River from the mouth to 500 feet downstream of the Leavenworth National Fish Hatchery Barrier Dam: Closed to suction dredging.

Peshastin Creek and all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Grays Harbor County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

King County

Raging River from the mouth upstream: Closed to suction dredging.

Kittitas County

Little Naches River: Closed to suction dredging.

Teaway River, including West, Middle and North Forks: Closed to suction dredging.

Lewis County

Newaukum River and all tributaries: Closed to suction dredging.

Okanogan County

Okanogan River from the Hwy 97 Bridge immediately upstream of the mouth to Zosel Dam: Closed to suction dredging.

Similkameen River from the mouth upstream to Enloe Dam: Closed to suction dredging.

Skagit County

Suiattle River Tributaries Buck, Downey and Sulpher Creeks: Closed to suction dredging.

Snohomish County

Wallace River from the mouth upstream including all tributaries: Closed to suction dredging.

Thurston County

Black River (Grays Harbor and Thurston Counties) from the mouth upstream to Black Lake: Closed to suction dredging.

Whatcom County

South Fork Nooksack River from the mouth to Skookum Creek : Closed to suction dredging.

Yakima County

Ahtanum Creek, including North and Middle Forks: Closed to suction dredging.

R E P E A L E R

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000E Mineral prospecting. (15-334)

ATTACHMENT A

Reasons for this finding: A lack of snowpack from an unusually warm winter has resulted in drought conditions throughout much of Washington. A healthy snowpack slowly provides water to rivers and streams, helping to sustain fish through the drier summer months. But, with little or no snowpack, flows in many rivers dropped significantly and water temperatures increased – conditions that are lethal to fish. In response, WDFW placed drought-related fishing closures and restrictions on over 60 rivers and streams.

Low water and higher than normal water temperatures limited fish movement and made them more susceptible to diseases. In addition, stream flows fell low enough to concentrate fish into small areas of refugia where they were highly susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW aligned the authorized work times for suction dredging in the Gold and Fish Rules for Mineral Prospecting and Placer Mining with drought-related fishing closures or restrictions in effect. There was insufficient time to adopt permanent rules. Water temperatures and streamflows have improved due to changing weather patterns, so emergency rule changes for mineral prospecting in some streams are being modified to return to permanent rule requirements.

Per permanent rule, work in the wetted perimeter or frequent scour zone is authorized from one-half hour before sunrise to one-half hour after sunset. The daily closures from 2 PM to one-half hour after sunset are intended to reduce additional stress to fish from suction dredging during periods of the day when fish are stressed from elevated temperatures. In addition, some streams are closed to suction dredging because of record low flows due to lack of winter snowpack and rainfall. Stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance at these temperatures further reduces survival.

Many of the restrictions placed on various streams under previous emergency rules are repealed in this emergency rule. Lower air temperatures and recent rainfall have resulted in stream flows and water temperatures similar to average fall conditions. Those conditions are not expected to change considerably for the remaining times dredging is authorized under the permanent rules.