



Washington  
Department of  
**FISH and  
WILDLIFE**

# Suction Dredge Rule Making

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Habitat Program

2018 Public Meetings

July 16<sup>th</sup>, 17<sup>th</sup>, 19<sup>th</sup>, 25<sup>th</sup>

# Agenda

- Welcome & introductions
- Suction dredge rule making background
  - Petition
  - Directive & objectives
  - Timeline
- Public comments
- Next steps
- Adjourn

# Rule Making Petition to Fish & Wildlife Commission

- Petition Requests
  - Prohibit suction dredging in rivers and creeks designated as federal Endangered Species Act (ESA) critical habitat
  - Require individual HPAs for suction dredging
  - Issue HPAs that comply with ESA and Clean Water Act
- Fish and Wildlife Commission Denied Petition
  - Chapter 77.55 does not give WDFW the authority to use the HPA to regulate for purposes governed by other state and federal laws
  - Prohibiting suction dredging goes beyond the Commission's authority
  - The HPA doesn't authorize anyone to violate other applicable laws.

# F&W Commission Rule Making Directive

- February panel presentations to Fish and Wildlife Commission on suction dredging.
- In April the Fish and Wildlife Commission directed WDFW to initiate a rule making to require individual Hydraulic Project Approvals (HPAs) for all suction dredge mineral prospecting.
- To accomplish this requirement, WDFW plans to amend chapter 220-660 WAC. Section 220-660-300 WAC regulates common mineral prospecting methods authorized under WDFW's "Gold and Fish" pamphlet.
- Goal: Modify existing rules and create new rules that will permit motorized and non-motorized suction dredging activities in the state through individual HPAs while providing protection for fish life and minimizing regulatory burden on suction dredger operators.

# Suction Dredge Rule Making Objectives

- Develop an individual HPA application method for suction dredging;
- Develop application and reporting methods to enable WDFW to determine:
  - the number of prospectors engaged in suction dredging
  - where and how much suction dredging occurs
- Identify methods to prevent the spread of aquatic invasive species through the movement of suction dredging equipment into and around the state
- Streamline the transition for suction dredgers as much as possible

WAC 220-660-300  
Mineral prospecting.  
(1) Description: Mineral prospecting.  
When prospecting occurs in the state, the department shall provide the main purpose of the prospecting activity.

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OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED  
DATE: May 08, 2018  
TIME: 1:41 PM  
WSR 18-11-037

**PREPROPOSAL STATEMENT OF INQUIRY**  
CR-101 (August 2017)  
(Implements RCW 34.05.310)  
Do NOT use for expedited rule making

Agency: Department of Fish and Wildlife (WDFW)  
**Subject of possible rule making:**  
On April 14, 2018, the Fish and Wildlife Commission directed WDFW to initiate a rule making to require individual Hydraulic Project Approvals (HPAs) for all suction dredge mineral prospecting. To accomplish this requirement, WDFW plans to amend two sections and create a new section under chapter 220-660 WAC. Section 220-660-300 WAC regulates common mineral prospecting methods authorized under WDFW's "Gold and Fish" pamphlet. WDFW's goal in this rule making is to modify existing rules and create new rules that will permit motorized and non-motorized suction dredging activities in the state through individual HPAs while providing protection for fish life.  
WDFW's objectives in this rule making include the following:

- Develop an individual HPA application method for suction dredging that is streamlined;
- Develop application and reporting methods to enable WDFW to determine:
  - the number of prospectors engaged in suction dredging and
  - where and how much suction dredging occurs; and
- Identify methods to prevent the spread of aquatic invasive species through the movement of suction dredging equipment into and around the state.

  
WDFW will develop rules in cooperation with the recreational mining community and other interested parties.  
The rule making as proposed would amend sections 220-660-030 WAC (Definitions) and 220-660-300 WAC (Mineral prospecting) and create a new section under Chapter 220-660 WAC.  
Statutes authorizing the agency to adopt rules on this subject: RCWs 77.04.012, 77.12.047, 77.55.021, 77.55.091 and 34.05.328 . . .

**Reasons why rules on this subject may be needed and what they might accomplish:**  
WDFW proposes changes to sections under Chapter 220-660 WAC to achieve the following outcomes:

- Modify existing rules or create new rules that will permit motorized and non-motorized suction dredging activities in the state through individual HPAs while providing protection for fish life.
- Develop an individual HPA application method for suction dredging that is streamlined.
- Develop application and reporting methods to enable WDFW to determine the number of prospectors engaged in suction dredging and where and how much suction dredging occurs.
- Identify methods to prevent the spread of aquatic invasive species through the movement of mineral prospecting equipment around the state.
- Make other essential changes to WACs 220-660-030 and 220-660-300 that clarify language, intent or accommodate administrative changes.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**  
WDFW is the sole authority regulating hydraulic projects under Chapter 77.55 RCW, and the only state agency that regulates hydraulic projects solely for the protection of all fish life. The U.S. Army Corps of Engineers, Washington Department of Ecology, Washington Department of Natural Resources, Washington State Parks, and local governments also regulate certain aspects of hydraulic projects under their own authorities. National Marine Fisheries Service and U.S. Fish and Wildlife Service regulate the "take" of threatened or endangered species listed under the federal Endangered Species Act. Federal land managers, including U.S. Forest Service, National Parks Service, and Bureau of Land Management, regulate activities occurring on federal lands and have an interest in state hydraulic code regulations. Tribes regulate fisheries and certain aspects of construction projects on tribal lands. Each of these entities will be invited to comment on draft rules during the rulemaking process. Their comments and concerns will be carefully considered in rule change decisions. In addition to the

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# Suction Dredge Rule Making Timeline

