



# 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 15-303**

- 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Repealed: WAC 220-660-30000B  
 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:** August 31, 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: August 31, 2015**

**TIME: 4:13 PM**

**WSR 15-18-093**

(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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	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:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## NEW SECTION

WAC 220-660-30000C 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:

### **Asotin County**

Asotin Creek and tributaries from mouth to headwaters: Closed to suction dredging.

### **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.

### **Clallam County**

Quillayute River from the confluence of the Sol Duc and Bogachiel Rivers downstream 475 yards: Closed to suction dredging.

Sol Duc River including all tributaries: Closed to suction dredging.

Bogachiel River including all tributaries: Closed to suction dredging.

Calawah River including all tributaries: Closed to suction dredging.

Dickey River including all tributaries: Closed to suction dredging.

### **Clark County**

East Fork Lewis River from mouth upstream to top boat ramp at Lewisville Park: Closed to suction dredging.

East Fork Lewis River from top boat ramp at Lewisville Park upstream to 400 feet below Horseshoe Falls: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Washougal River from mouth upstream to Mt. Norway Bridge: Closed to suction dredging.

Washougal River from Mt. Norway Bridge upstream to the Salmon Falls Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

### **Columbia County**

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Touchet River (Columbia/Walla Walla Co.) from mouth to the confluence of the North and South forks: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

- (1) North Fork Touchet River from mouth to Spangler Creek: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.
- (2) North Fork Touchet River upstream from the confluence of Spangler Creek: Closed to suction dredging.
- (3) South Fork Touchet River from mouth to Griffen Fork and above Griffen Fork: Closed to suction dredging.
- (4) Wolf Fork Touchet River from mouth to Coates Creek and Robinson Fork: Closed to suction dredging.

### **Ferry County**

Kettle River and all tributaries from Barstow Bridge to headwaters, all portions contained within the United States: Closed to suction dredging.

### **Garfield County**

Tucannon River (Columbia/Garfield Co.) From Highway 12 Bridge to Cow Camp Bridge: 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.

### **Jefferson County**

Clearwater River and its tributaries: Closed to suction dredging.

Queets River and its tributaries including Matheny Creek and the Salmon River outside Olympic National Park and the Quinault Reservation: Closed to suction dredging.

Big Quilcene mainstem: Closed to suction dredging.

## **King County**

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

Snoqualmie River from the mouth upstream to Snoqualmie Falls: Effective September 1, 2015, closed to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Kittitas County**

Little Naches River: Closed to suction dredging.

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

Swauk Creek and all tributaries downstream from the confluence of Williams Creek: Closed daily to suction dredging from 2 PM to until one-half hour after official sunset.  
Williams Creek and all tributaries and Swauk Creek and all tributaries upstream from the confluence of Williams Creek: Closed to suction dredging.

## **Lewis County**

Newaukum River and all tributaries: Closed to suction dredging.

## **Lincoln County**

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Okanogan County**

Methow River from County Road 1535 Bridge (lower Burma Rd.) upstream to Weeman Bridge (8 miles upstream of Winthrop): Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

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.

## **Pend Oreille County**

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

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Skagit County**

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

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

Samish River from I-5 to headwaters and Friday Creek from the mouth upstream: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to suction dredging.

## **Snohomish County**

Skykomish River from mouth upstream: Closed to suction dredging except the section around Reiter Ponds remains open from the Gold Bar/Big Eddy Access (Hwy. 2 Bridge) upstream to the confluence of the North and South Forks.

North Fork Skykomish River from mouth upstream including all tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

South Fork Skykomish River (Snohomish/King Co.) from Sunset Falls upstream and all tributaries, including the Beckler, Foss, Miller and Rapid Rivers and their tributaries: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

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

Stillaguamish River (Skagit/Snohomish Co.) from Marine Drive upstream including the North and South Forks and all tributaries: Closed to all suction dredging.

Sauk River (Skagit/Snohomish Co.) From the confluence with the Suiattle River upstream including North Fork from mouth to North Fork Falls and South Fork from mouth to Elliot Creek: Closed to suction dredging.

## **Spokane County**

Spokane River (Spokane/Lincoln Co.) from upstream Boundary at Plese Flats Day Use Area to Idaho State Boundary: Closed daily to suction dredging 2 PM to one-half hour after official sunset.

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Stevens County**

Spokane River tributaries, including Little Spokane River and tributaries (Spokane/Pend Oreille/Stevens Co.) from State Route 25 Bridge upstream to Monroe Street Dam: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Colville River and all tributaries from mouth to headwaters: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Thurston County**

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

Nisqually River (Thurston Co.) from the mouth to the military tank crossing bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Walla Walla County**

Walla Walla River from McDonald Road Bridge to Oregon State Boundary: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Mill Creek from Bennington Dam to State Line: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

## **Whatcom County**

Nooksack River from Slater Road to the forks: Closed to suction dredging.

Middle Fork Nooksack River from the mouth to the City of Bellingham Diversion Dam and all tributaries: Closed to suction dredging.

North Fork Nooksack River from the mouth to Nooksack Falls and all tributaries: Closed to suction dredging.

South Fork Nooksack River from the mouth to Skookum Creek and from Wanlick Creek to headwaters including Wanlick and all tributaries: Closed to suction dredging.

### **Yakima County**

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

American River: Closed to suction dredging.

Yakima River from Interstate 82 Bridge at Union Gap to South Cle Elum Bridge: Closed daily to suction dredging from 2 PM to one-half hour after official sunset.

Naches River from Tieton River to Bumping River/Little Naches River: Closed daily to suction dredging from 2 PM until one-half hour after official sunset.

Rattlesnake Creek (mainstem): Closed daily to suction dredging from 2 PM until one-half hour after official sunset.

### **R E P E A L E R**

The following section of the Washington Administrative Code is repealed:

WAC 220-660-30000B Mineral prospecting. (15-285)



## 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 have dropped significantly and water temperatures have increased – conditions that are lethal to fish. In response, WDFW has placed drought-related fishing closures and restrictions on over 60 rivers and streams.

Low water and higher than normal water temperatures are limiting fish movement and making them more susceptible to diseases. In addition, stream flows have fallen low enough to concentrate fish into small areas of refugia where they are highly susceptible to additional stress from disturbance caused by suction dredging. To protect fish life, WDFW is aligning 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 now in effect. There is insufficient time to adopt permanent rules. As water temperatures and streamflows improve due to changing weather patterns, emergency rule changes for mineral prospecting will be 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.

Previous versions of these emergency rules allowed excavation sites to remain unfilled and tailing piles to remain only partly leveled. This version of the emergency rules returns these requirements to those in the permanent rules. With continued dropping of water levels in streams, unfilled excavation sites may become isolated from flowing water of the stream resulting in stranding of fish, making them more susceptible to predation or suffocation due to high water temperatures and low flows. Unleveled tailing piles may divert or alter streamflow out of the normal channel. (15-303, 8/31/2015)