



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: September 20, 2021

TIME: 2:35 PM

WSR 21-19-115

Agency: Washington Department of Fish and Wildlife (WDFW)

Title of rule and other identifying information: (describe subject) HPA rule making implementing RCW 77.55.480 regarding streamlining of environmental permitting for habitat recovery projects. This rule creates a new section in chapter 220-660 WAC (Hydraulic Code Rules).

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Rule amendments are proposed as necessary to implement RCW 77.55.480. This statute was passed into law as Engrossed Second Substitute House Bill 1382 (Laws of 2021, c. 75) during the 2021 legislative session. The statute creates a habitat recovery pilot program. The program provides a streamlined permitting process so that qualified habitat recovery projects may advance to construction quickly and efficiently, thereby creating jobs and further bolstering the natural resources and natural resource economy. WDFW will evaluate qualified HPA project applications according to the process described in statute. Other aspects of chapter 220-660 WAC remain unchanged.

Reasons supporting proposal: This rule proposal adopts the habitat recovery pilot program by reference to statute. The expedited proposal ensures that the pilot program is implemented quickly, allowing it to be fully functional for the longest duration possible before its designated sunset date.

Statutory authority for adoption: RCW 77.04.012, 77.12.047, 77.55.021, and 34.05.328

Statute being implemented: RCW 77.55.480

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Name of proponent: (person or organization) Washington Department of Fish and Wildlife

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Theresa Nation	1111 Washington St. SE Olympia, WA 98501	(360) 688-4745
Implementation:	Josh Peters	1111 Washington St. SE Olympia, WA 98501	(360) 280-3624
Enforcement:	Chief Steve Bear	1111 Washington St. SE Olympia, WA 98501	(360) 902-2373

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: Randi Thurston is the agency personnel responsible for civil compliance of Chapter 220-660 WAC. She may be reached at (360) 870-4450.

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- ☐ Relates only to internal governmental operations that are not subject to violation by a person;
- ☒ Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- ☐ Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- ☐ Content is explicitly and specifically dictated by statute;
- ☐ Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- ☐ Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- ☐ The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- ☐ The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- ☐ The rule is no longer necessary because of changed circumstances; or
- ☐ Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): Expedited rulemaking is appropriate because the proposed rule adopts Engrossed Second Substitute House Bill 1382 without change. Because this pilot program contains an end date, expedited rulemaking is preferred to ensure timely implementation of the program.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY (date) Nov. 22, 2021

Date: 9/20/2021

Name: Annie Szvetcz

Title: Agency Rules Coordinator

Signature:



NEW SECTION

WAC 220-660-490 Habitat recovery projects. Projects must satisfy the requirements outlined in RCW 77.55.480, to be processed as a streamlined habitat recovery project. Requirements outlined in that statute are incorporated herein by reference as if fully set forth herein. Copies of this statute, available to the public on request, are also available online at <https://app.leg.wa.gov/RCW/default.aspx?cite=77.55.480>.