



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: May 18, 2022

TIME: 11:42 AM

WSR 22-11-094

Agency: Washington Department of Fish and Wildlife

Subject of possible rule making: Amendments to Hydraulic Code Rules, chapter 220-660 WAC, necessary to implement Substitute Senate Bill 5273 (Laws of 2021, chapter 279), which became effective on July 25, 2021. Rule sections requiring amendment may include WAC 220-660-030 (Definitions), WAC 220-660-050 (Procedures-Hydraulic project approvals), and WAC 220-660-370 (Bank protection in saltwater areas).

Statutes authorizing the agency to adopt rules on this subject: RCW 77.04.012, 77.12.047, 77.55.021, 77.55.231, 34.05.328, and SSB 5273 (Laws of 2021, chapter 279).

Reasons why rules on this subject may be needed and what they might accomplish: Rule amendments are needed to implement SSB 5273 regarding replacement of marine residential shoreline stabilization or armoring.

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. Tribes regulate fisheries and certain aspects of construction projects on tribal lands. State, federal, and local government entities will be invited to comment on draft rules during the rulemaking process. WDFW will conduct government-to-government consultation with tribes.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Changes to chapter 77.55 RCW made in SSB 5273 compel associated changes to the implementing Hydraulic Code Rules in chapter 220-660 WAC.

The standard process for the adoption of administrative rules under the Administrative Procedures Act (Chapter 34.05 RCW) and the applicable provisions for Significant Legislative Rules (RCW 34.05.328) is the most appropriate process for this Hydraulic Code rule making. Negotiated rule making is not practicable because rule language will largely mirror statute language, which reflects collaboration during the legislative session, and because negotiated rule making would increase the time needed and the cost of rule-making without added benefit. Pilot rule making is not applicable because the statutory changes, and therefore the proposed amendments, apply statewide.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

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Web site:

Other:

Other:

Additional comments:

Date: 5/18/22

Name: Annie Szvetecz

Title: Agency Rules Coordinator

Signature:

