

## Summary Sheet

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Meeting date: April 9, 2021

Agenda item: A. 2020 Hydraulic Code Rulemaking Implementing ESHB 1261 – Briefing and Adoption

Presenter(s): Margen Carlson, Habitat Program Director,  
Andy Carlson, Protection Division Manager, and  
Theresa Nation, Protection Division Environmental Planner

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### **Background summary:**

Habitat Program staff will brief the Commission on comments received and changes proposed to the amendments to the Hydraulic Code rules needed to implement ESHB 1261. This Bill requires that anyone wishing to conduct mineral prospecting using motorized or gravity siphon equipment, or desires to discharge effluent to waters of the state from such activity, must provide proof of compliance with the Clean Water Act issued by the Department of Ecology as part of a Hydraulic Project Approval permit (HPA) application. The Bill also introduced two new definitions. These changes modify Chapter 77.55 RCW.

In order to implement the Bill, WDFW proposes to amend WAC sections 220-660-030 Definitions, 220-660-050 Procedures; 220-660-300 Mineral Prospecting; and 220-660-305 Suction Dredging. The Commission held a public hearing on proposed rule changes on January 29, 2021, via webinar.

### **Materials**

Because Hydraulic Code Rules are significant legislative rules, you have a large volume of material before you.

- A summary of comments received – both general and specific to the proposed rules – and WDFW’s responses to those comments;
- Proposed rule changes:
  - WAC 220-660-030 (Definitions)
  - WAC 220-660-050 (Procedures)
  - WAC 220-660-300 (Mineral Prospecting)
  - WAC 220-660-305 (Suction Dredging)
- Implementation Plan;
- Final Regulatory Analysis document, including cost-benefit analysis and least-burdensome alternative analysis; and
- Small Business Economic Impact Statement (SBEIS)

The SBEIS is the same version provided to the Commission prior to the public hearing. The Regulatory Analysis has minor edits, but the substance remains the same. Copies of the Response to Comments, Implementation Plan, SBEIS, CR-102 and Regulatory Analysis document are available on the HPA rule making web page at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

The rule filing (CR-103P Rule Making Order) and a Concise Explanatory Statement (including the summary of comments received) will be available online if/when the rule adoption is filed with the code reviser.

**Changes between the CR-102 proposed rule and the proposed final (amended) rule**

There are two changes between the CR-102 version of the rules and the proposed adoption version rules. These changes have already been made in the version of the rules you have received in your notebooks.

WAC Section	Proposed change from CR-102	Reason for change
220-660-030(72)	"Hand-held mineral prospecting tools" means tools used for mineral prospecting that are held by hand, <u>and</u> do not have moving parts, <del>and are not</del> powered, in whole or in part, by internal combustion, electricity, hydraulics, or pneumatics. Examples include, but are not necessarily limited to, <del>metal detectors,</del> shovels, picks, trowels, hammers, and pry bars	Clarification. To eliminate confusion about moving parts on hand-held mineral prospecting tools. Clarifies that they may not have moving parts powered by internal combustion, electricity, hydraulics, or pneumatics. Reference to metal detectors is also removed. The change is in response to public comments.
220-660-305(5)(c)	<del>Motorized or gravity siphon equipment listed in the previous provision may be used ONLY in waters in Adams, Benton, Clallam, Franklin, Grant, Grays Harbor, Lincoln, Spokane, Whitman, and Yakima counties that are NOT designated under the Endangered Species Act as critical habitat for salmon, steelhead, or bull trout or have a freshwater designated use of salmonid spawning, rearing, and migration. A map identifying waters where motorized methods are allowed is available from Washington department of ecology. The Washington department of ecology determines where motorized or gravity siphon equipment listed in the previous provision may be used. Contact the Washington department of ecology water quality program for information about the locations where the use of motorized or gravity siphon equipment is allowed.</del>	Clarification. Rather than listing those specific areas where the Washington Department of Ecology prohibits motorized or gravity siphon equipment, this change more generally refers to the Department of Ecology's authority under RCW 90.48.615. This revision clarifies that it is Ecology that is responsible for designating these areas, and it also prevents this provision from becoming obsolete in the event that Ecology amends its designations.

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**Policy issue(s) and expected outcome:**

**Objectives of rule making**

WDFW's objectives in this rule making, as stated in the CR-101 and CR-102, include:

- Add definitions for “gravity siphon aquatic mining” and “motorized or gravity siphon equipment”;
- Specify that a standard hydraulic project approval (HPA) permit is required to conduct mineral prospecting involving motorized or gravity siphon equipment and require proof of compliance with the federal Clean Water Act for this activity as part of a complete application for a standard HPA;
- Specify that WDFW may reject an application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations occur where the Department of Ecology prohibits those activities under RCW 90.48.615;
- Remove authorization for motorized mineral prospecting activities from the Gold and Fish pamphlet rules; and
- Specify that all activities under WAC 200-660-305 (Mineral prospecting involving motorized or gravity siphon equipment) must employ aquatic invasive species prevention.

**Purpose of the rule change**

As stated in the CR-102, *Rule amendments are proposed as necessary to implement elements of Engrossed Substitute House Bill 1261 (ESHB 1261) - a bill passed by the legislature during the 2020 legislative session.*

**Administrative Procedure Act determinations for Significant Legislative Rules**

The following determinations relate to the entire 2020 Hydraulic Code Rule changes needed to implement ESHB 1261 with amendments as noted earlier. Staff will walk the Commission through the following determinations and answer questions.

No.	Chapter 34.05 RCW Section and Subsection	The Commission determines that...
1	328(5)(a) Significant	Hydraulic code rules in chapter 220-660 WAC implementing chapter 77.55 RCW are significant legislative rules as specified in RCW 34.05.328(5)(a)(i).
2	328(1)(a) Goals	The general goal of chapter 77.55 RCW (Construction projects in State Waters) is to protect fish life. The specific objectives of chapter 77.55 RCW are to ensure that hydraulic projects in Washington State are reasonably assessed and conditioned to adequately protect fish life in a manner that is proportionate to the impacts of the projects.
3	328(1)(b) Rule needed	The proposed rule is needed to implement elements of ESHB 1261, as enacted, into Chapter 220-660 WAC:

		<ul style="list-style-type: none"> <li>Specify that a standard hydraulic project approval (HPA) permit is required to conduct mineral prospecting involving motorized or gravity siphon equipment and require proof of compliance with the federal Clean Water Act for this activity as part of a complete application for a standard HPA.</li> </ul>
Note	328(1)(c) Cost-benefits analysis notification	This item is not a determination. It is a notification requirement that was fulfilled in the CR-102 (Notice of Proposed Rulemaking).
4	328(1)(d) Benefits greater than costs	The probable benefits of the proposed rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.
5	328(1)(e) Least Burdensome Alternative	After considering alternative versions of the rule in context with the goals and objectives of the authorizing statute, the proposed rule represents the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under chapter 77.55 RCW.
6	328(1)(f) Federal or state law	The rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.
7	328(1)(g) Private entities	Requirements are the same for public and private entities wishing to engage in a hydraulic project; the rule does not impose more stringent performance requirements on private entities than on public entities.
8	328(1)(h)(i)-(ii) Differences	Differences between the rule and federal authorities are necessary because there are no federal laws or rules solely protects all fish life from the effects of construction projects and other work in or near the water. The rule differs from any federal regulation or statute applicable to the same activity or subject matter and the difference is necessary to meet the objectives of the hydraulic code statute.
9	328(1)(i) Coordination	WDFW has demonstrated that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.
10	271(1)(a) Sources of information	WDFW has identified and provided in the Regulatory Analysis document the sources of information reviewed and relied upon by the agency in the course of preparing to take this significant agency action.

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**Fiscal impacts of agency implementation:**

**Estimated cost to the regulated community**

The up-front cost to acquire a permit is estimated from \$128.68 to \$186.04. The cost to comply with the aquatic invasive species rule is estimated at \$71.70 annually. The total cost to comply in the first year of a permit is the highest, including both the cost of acquiring a permit and annual cost to comply with the invasive species rule. It is estimated from \$200.38 to \$257.74. Total costs to comply per person per year spread over a 5-year permit range from \$97.44 to \$108.91.

**Estimated cost to the department**

Costs associated with this rule making relate to republishing of the Gold and Fish pamphlet, training for Habitat Biologists who issue mineral prospecting HPAs, and public outreach. These costs will be incurred during implementation of the rules and primarily realized in staff time. It is not yet clear whether the workload related to issuing HPAs will increase or simply be redistributed. We anticipate that HPA applications for freshwater mineral prospecting across the state will decrease while applications for beach prospecting will increase. As a result, the workload will shift from statewide to mainly Region 6.

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**Public involvement process used and what you learned:**

The following is an overview of the public involvement process conducted throughout the preproposal and formal comment period.

**Outreach**

On June 18, 2020, WDFW notified tribes that it had filed a Preproposal Statement of Inquiry (CR-101) this rule proposal, inviting questions and comments on scoping the rules. On June 19, 2020 the department emailed a similar message to state and federal agencies and key stakeholders.

On July 31, 2020, WDFW sent state and federal agencies and key stakeholders an update and further information. The email included an invitation for prospectors to participate in a survey to help inform the Small Business Economic Impact Statement. It also invited further questions and comments.

On December 11, 2020, WDFW emailed tribes notification that a Notice of Proposed Rule Making (CR-102) would be published in December 16, 2020 and attached relevant documents. The email included an invitation to submit comments or request a government to government meeting. It also contained background, rule proposal details and a timeline. WDFW emailed state and federal agencies and key stakeholders on December 18, 2020, to inform them of the notice of rule making and formal comment period. This email also included relevant documents, background, rule proposal details and a timeline

The related rule-making documents were posted on WDFW's HPA Rule Making web page<sup>1</sup> on December 16, 2020, including copies of the CR-102, the proposed rule language, the draft Regulatory Analysis document for significant legislative rule making pursuant to the Administrative Procedure Act, and a Small Business Economic Impact Statement (SBEIS) pursuant to the Regulatory Fairness Act. The department provided an email address and postal address to which comments could be sent, as well as an online commenting form.

WDFW posted a narrated Power Point slide show to the WDFW HPA Rule Making website on December 23, 2021 providing information about this rule making effort.

Formal government to government consultation with the Makah Tribe was conducted on March 3, 2021, with the Washington Department of Ecology also participating.

**Comments received:**

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<sup>1</sup> <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

Between December 16, 2020 and January 30, 2021, a total of 32 written comments were received during the formal comment period, plus one comment was given orally at the Commission’s public hearing on January 29, 2021.

Formal comments received: 8 comments were received generally supporting adoption of the proposed rules and 17 opposing adoption of the rules. Six comments neither supported nor opposed the rule proposal. A supporting letter from the Washington Wild Coalition was signed by 66 organizations and businesses.

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**Action requested and/or proposed next steps:**

- Adoption of the modified rule proposals.
- If the rules are adopted, staff will file rules with the Code Reviser and carry out the Implementation Plan.

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**Draft motion language:**

**1) Draft motion language - adopt rules and determinations:**

Motion: *I move to adopt the determinations made in the Final Regulatory Analyses as summarized by staff today, and to adopt the amended rules as presented by staff.*

*Is there a “second?”*

If so, then motion maker discusses basis for motion; other Commissioners discuss views on the motion; and amendments, if any, are proposed and addressed, before a vote is taken.

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**Justification for Commission action:**

The proposed rule is needed in order to implement elements of Engrossed Substitute House Bill 1261 (ESHB 1261) - a bill passed by the legislature during the 2020 legislative session.

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**Post-decision communications plan:**

Staff will implement communication elements of the Implementation Plan.

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*Form revised 2-15-18*



## Comments Received and WDFW Responses

Proposed rules were filed with the Washington State Code Reviser as WSR 19-05-094 (CR-102) on December 2, 2020 and appeared in WSR 20-24 published on December 16, 2020. The public comment period for this rule making was open from December 16, 2020 through 5 p.m. on January 30, 2021. The Commission held a public hearing on January 29, 2021 via webinar.

On December 11, 2020, WDFW emailed information about the rule proposal to 29 federally recognized tribes located in or with rights in Washington. Information included background, proposal overview, a timeline, and an invitation to comment and/or initiate government-to-government consultation. WDFW also sent notice to 472 email addresses on December 18, 2020, informing people that the proposed rules had been filed with the Code Reviser. Included in that distribution were Hydraulic Code Implementation Citizen Advisory Group members, state and federal agency representatives, contacts from mineral prospecting organizations, miners who responded to our HPA survey, preproposal commenters, and other parties who have indicated interest in mineral prospecting rules.

Rule making documents were posted on WDFW's Hydraulic Project Approval (HPA) Rule Making web page<sup>1</sup> on December 16, 2020, including copies of the CR-102, draft Regulatory Analysis, and Small Business Economic Impact Statement. WDFW provided an email address, fax number and postal address to which comments could be sent.

Table 1 shows the numbers of comments received. A total of 32 written comments were submitted during the formal comment period. One letter was sent from the Washington Wild coalition and jointly signed by 66 businesses and organizations. The Makah Tribe sent comments that included a request for formal government-to-government consultation. One comment was given orally at the Commission's public hearing on January 29, 2021.

**Table 1 Descriptive statistics for comments received**

Category	Number
Support	8
Oppose	17
Other	6
Businesses and organizations signing joint support letter	66

Below is a summary of comments received during the formal comment period and WDFW's responses to those comments. Comments that are not specific to the proposed rule language in WAC 220-660-030, -050, -300, or -305 are grouped in section A. Comments specific to rule language are provided on Table 3 in Section B. Section C discusses comments on rule implementation.

<sup>1</sup> <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

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## **A. Non-Rule-Specific Comments**

Comments in this section are grouped by topic.

### **1 Gold and Fish Pamphlet**

Several commenters requested that the Gold and Fish pamphlet remain unchanged or that specific equipment be kept in the pamphlet. Equipment requests especially focused on battery-powered mini high-bankers and recirculating systems. Currently, the pamphlet authorizes mineral prospecting activities that include the use of certain motorized or gravity siphon equipment, but that equipment will be removed from the pamphlet under the rule proposal.

#### [Commenters:](#)

Five individuals

#### [WDFW Response:](#)

WDFW seeks via its proposed rules to implement changes to RCW 77.55 via ESHB 1261. These changes include a new requirement that proof of compliance with the Clean Water Act be provided as part of an HPA application for any mineral prospecting activity involving motorized or gravity siphon equipment. WDFW can no longer regulate mineral prospecting involving motorized or gravity siphon equipment through its Gold and Fish pamphlet, which does not require an application. Requiring an individual HPA application for these activities triggers WDFW's standard HPA application process as required by RCW 77.55.021.

#### [How the final rule reflects this group of comments:](#)

No changes to the rule proposal are made as a result of this group of comments because the comments request a condition that is not aligned with state law.

### **2 Prohibitions enacted by law**

Opposition to the prohibitions enacted by ESHB 1261 was a common comment. Two pointed at other issues as the reasons for fish declines, stating prospecting was being used as a scapegoat. Some commentors suggested that mining claims or specific pieces of equipment should be exempt from the prohibitions. Others stated that the previous rules protected fish sufficiently, making the prohibitions unnecessary. Two commentors suggested alternative rules rather than prohibitions. One commentor indicated that they do not care what rules are enacted because they can no longer dredge.

#### [Commenters:](#)

Five individuals

#### [WDFW Response:](#)

WDFW seeks, via its proposed rules, to implement changes to RCW 77.55, the law which governs its hydraulic code rules. New statutory prohibitions on the use of motorized or gravity siphon aquatic mining are dictated by the Legislature, not WDFW. WDFW cannot develop rules that are inconsistent with governing statutes. The proposed rules are consistent with governing law,



including the recent legislative changes to RCW 77.55, and are thus within WDFW's rule making authority.

[How the final rule reflects this group of comments:](#)

No changes to the rule proposal are made as a result of this group of comments because the comments address statutory concerns that are outside the scope of WDFW's proposed rules or are not aligned with state statutes.

### **3 Potential Use Areas map**

One comment concerned the potential use areas as determined by the Department of Ecology (Ecology) and displayed on their online Potential Use Areas map. The comment stated that spawning streams are incorrectly identified.

[Commenters:](#)

One individual

[WDFW Response:](#)

WDFW defers to Ecology's identification of potential use areas, which Ecology does in accordance with state law.

[How the final rule reflects this group of comments:](#)

No changes to the rule proposal are made as a result of this comment because the comment addresses statutory concerns that are outside the scope of WDFW's proposed rules.

### **4 Toutle River Concern**

One commentor stated that all mining operations should be banned on the South Fork Toutle River and expressed a critical view of fish management practices.

[Commenters:](#)

One individual

[WDFW Response:](#)

The South Fork Toutle River is currently designated as salmonid spawning, rearing and migration, and therefore motorized or gravity siphon aquatic mining is prohibited under the laws passed in ESHB 1261. Mining using hand-held mineral prospecting tools and select other equipment is, and will continue to be, authorized through WDFW's Gold and Fish pamphlet or a standard HPA. If the mining activity is conducted in compliance with the Gold and Fish pamphlet or standard HPA, then the activity is compatible with protection of fish life. WDFW only regulates mining activities that are properly considered "hydraulic projects" under RCW 77.55.011(11). WFW does not regulate other types of mining.

[How the final rule reflects this group of comments:](#)

No changes to the rule proposal are made as a result of this comment because the comment addresses a concern that is already addressed, in part, by statute, and/or it addresses a concern that is outside the scope of the proposed rules.

## **5 Mining as a pollutant**

Two comments were received objecting to the concept that mining output is a pollutant, because the output is material that originated in the stream in the first place. One of these comments referred to Supreme Court Justice Ginsburg's pot and ladle analogy from case law regarding the federal Clean Water Act.

[Commenters:](#)

Two individuals

[WDFW Response:](#)

WDFW is authorized in Chapter 77.55 RCW to protect fish life and fish habitat in Washington. This is accomplished through the HPA permitting program. The above comments specifically regard definitions of pollutants in the federal Clean Water Act, which is outside of WDFW's rule making authority.

[How the final rule reflects this group of comments:](#)

No changes to the rule proposal are made as a result of this group of comments because the comments address statutory concerns that are outside the scope of WDFW's proposed rules.

## **6 Discover Pass**

One commentor suggested a prospecting permit statewide, following the rules of the Gold and Fish pamphlet, to be obtained as an attachment to the Discovery Pass. It would allow mini high-bankers to recirculate and dump no more than 50 gallons of recirculated water on the ground each day, at a specified distance from body of water, so long as the water is from the same body of water.

[Commenters:](#)

One individual

[Response:](#)

The Gold and Fish pamphlet covers specific mining activities statewide and does not require a Discover Pass as a condition of use. WDFW does not recommend such a condition because the majority of mining activity takes place on lands where a Discover Pass is not applicable. Additionally, requiring a Discover Pass will not contribute to the protection of fish life.

[How the final rule reflects this comment:](#)

No changes to the rule proposal are made as a result of this comment because the comment is outside the scope of the proposed rules.

## **7 Legislative action**

One commentor asked that WDFW return to the state legislature to recommend that ESHB 1261 be struck down as unnecessary.

### Commenter:

One individual

### WDFW Response:

Regardless of whether the Legislature decides to amend or repeal statutory changes made via ESHB 1261 in the future, those statutory changes, including changes to RCW 77.55, are current law. WDFW seeks, via its proposed rules, to implement changes to RCW 77.55, which governs its hydraulic code rules. WDFW cannot develop rules that are inconsistent with governing statutes. The proposed rules are consistent with governing law, including recent legislative changes to RCW 77.55, and are thus within WDFW's statutory rule-making authority.

### How the final rule reflects this group of comments:

No changes to the rule proposal are made as a result of this comment because the comment addresses statutory concerns that are outside the scope of the present rule making activity.

## **8 Ban all motorized and gravity siphon methods of placer mining**

WDFW received a range of comments that transcend the scope of the current rule making activity. These comments indicated that all motorized and gravity siphon mineral prospecting methods should be banned. All five comments cited concerns for fish. One comment requested no mining in or near streams that have sports fish in them. Another stated that mining would also complicate water rights adjudication being conducted by the Department of Ecology.

### Commenters:

5 individuals

### WDFW Response:

The direct and indirect environmental effects of motorized and gravity siphon aquatic mining are considered to be a function of the intensity, frequency, duration, and location of the activity. Under the current and proposed rules, if the mining activity is conducted in compliance with the Gold and Fish Pamphlet or a standard HPA, then the activity is compatible with protection of fish life. Given the state of scientific information on existing mitigation measures under the current regulations, and given the statutory limitations on WDFW's authority to condition or deny permits, WDFW does not currently have a sufficient basis on which to ban mineral prospecting involving motorized or gravity siphon equipment outright.

### How the final rule reflects this group of comments:

No changes to the rule proposal are made as a result of this group of comments because the comments address issues that are beyond the scope of the present rule making activity.

## 9 Landowner permission

One commenter requested an amendment to Chapter 220-660 WAC to require that all HPA applicants be required to provide proof of landowner permission prior to approval of an HPA.

### Commenter:

Washington Department of Natural Resources

### WDFW Response:

Chapter 77.55 RCW limits WDFW authority to issue, deny, and condition HPAs to ensure protection of fish life. Landowner permission does not impact fish life; therefore it is not necessarily a prerequisite to WDFW making a decision whether to issue an HPA, with or without conditions.

That said, HPAs do not authorize trespass. WDFW requires project proponents seeking to complete hydraulic projects on privately owned land to submit proof of landowner permission for WDFW to enter a project site for the purpose of providing technical assistance and monitoring compliance. When a project is conducted on public lands, landowner permission to access the project site is unnecessary because WDFW already has access to public lands.

Where a landowner or land management entity has authority to regulate waters, WDFW's hydraulic code rules do not supersede those restrictions. For example, where federal or state land managers have, using other authority, closed an area or specific waters to mining or imposed some other restriction, WDFW's regulations do not override that closure or restriction/requirement.

### How the final rule reflects this comment:

No changes to the rule proposal are made as a result of this comment because the comments address issues that are beyond the scope of this rule making.

## 10 General support for the proposal

Seven commentors expressed support of the proposal. WDFW also received a joint letter of support signed by 66 businesses and organizations representing environmental interests. Some commentors indicated support and desired strict rules to protect fish life. Others simply indicated that they did not have any objections to the proposal. Additional issues presented by some of the commentors are covered in the responses above.

### Commenters:

Department of Natural Resources, Snoqualmie Tribe, 66 businesses and organizations in a joint letter, and 5 individuals

### WDFW Response:

Comments noted.

### How the final rule reflects this group of comments:

Final adoption of the proposal is supported by these comments.

## 11 General opposition to the proposal

In total, seventeen letters expressed opposition. Some explained that the permitting process was too difficult and the rules too complicated. Others explained that regulation discourages families from participating in outdoor activities or hinders to continuity of traditions. Multiple letters expressed opposition to regulation of mineral prospecting or referred to the loss of nonspecific rights. However, it was unclear whether they were objecting to regulations in statute, or rule changes being proposed by WDFW. Five letters expressed general opposition to the rule changes.

### Commenters:

17 individuals

### WDFW Response:

Individual concerns expressed in the letters are addressed in the responses above. The rule changes are limited to those necessary to align the rules with new laws passed by the Washington Legislature through ESHB 1261. The single exception is the expansion of the invasive species prevention requirement from suction dredge equipment to all motorized or gravity siphon equipment. Without the changes, the rules would conflict with the requirements in statute. Because the Legislature specifically requires project proponents to provide proof of compliance with the Clean Water Act as part of the HPA application process, failure to update the rules to align with current state law is not a viable alternative

### How the final rule reflects this group of comments:

For the reasons explained in each of the sections mentioned above, the proposal is not changed as a result of these comments because the proposal provides the most feasible way to implement new statutes into the Hydraulic Code rules.

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## **B. Comments on specific rule language**

WDFW received a number of comments on individual subsections of the proposed rules. Comments and responses are presented on Table 2.

**Table 2 Comments specific to rule sections, with responses and dispositions**

Topic or WAC	Comment	WDFW Response	How final proposed rule reflects this comment
<b>WAC 220-660-030 - Definitions</b>			
220-660-030(036)	The definition for “Dredging” is incorrect and does not meet any legal definition we have found. This definition as written includes using a backhoe or caterpillar tractor with a blade.	The definition of dredging is not proposed for change. It encompasses various dredging activities beyond mineral prospecting. The activity that may be authorized for mineral prospecting is defined specifically as “suction dredging” and does not include backhoes or caterpillar tractors.	No change proposed because this definition is not specifically relevant to mineral prospecting and is beyond the scope of the present rule making activity.
220-660-030(068)	“Gravity siphon aquatic mining” is improperly defined. Siphon means that a vacuum is formed; then water and/or gravel is drawn in due to the vacuum.	The proposed definition is not attempting to define the term “siphon”, but rather to distinguish mining activities powered by “gravity siphon” from other types of non-motorized mining.	No change proposed because the level of detail offered is not required for the purpose of the rule.
220-660-030(072)	<p>The term “do not have any moving parts” needs to be removed. A pulley, a hand operated winch, a wagon, a rocker box, a bucket handle, all have moving parts.</p> <hr/> <p>Clarification would alleviate most issues. 'Moving Parts' is the most obvious and needs definition my sluice for instance has nuts/bolts and a ramp that 'moves' when matting is added/removed.</p>	The revised definition for “hand-held mineral prospecting tools” was intended to capture powered, mechanical moving parts (i.e., motorized). We agree that it needs further revision for clarity.	Instead of removing “do not have any moving parts”, we propose amending WAC 220-660-030(072) to read: "Hand-held mineral prospecting tools" means <del>((:a))</del> tools used for mineral prospecting that are held by hand and <del>((are not))</del> do not have moving parts powered, in whole or in part, by internal combustion, <u>electricity</u> , hydraulics, or pneumatics. Examples <del>((are metal detectors))</del> include, but are not necessarily limited to, shovels, picks, trowels, hammers, <u>and pry bars</u> <del>((hand-operated winches, and battery-operated pumps specific to prospecting; and (b) Vac-pacs))</del> .

Topic or WAC	Comment	WDFW Response	How final proposed rule reflects this comment
220-660-030(096)	How does an animal get used in the definition for mineral prospecting equipment?	"Animal" was added to the definition of mineral prospecting equipment by public request during a previous round of rule making. The use of animals to mineral prospect is not currently authorized under the Hydraulic Code rules.	No change proposed because commenter has asked a question and not proposed a change.
<b>WAC 220-660-300 Mineral Prospecting</b>			
220-660-300(4)(g)(ix)	Add the fish guard back in the document if you genuinely care about fish life. Water intake screens still need to be used on hoses and is required legally by Ecology. Open sluices and buckets do not require it.	Language about fish guards has been removed from this subsection because the Gold and Fish pamphlet will no longer authorize the use of equipment that would trigger the fish guard requirement.	No changes proposed because the language in question is no longer needed in this subsection and is instead found in 220-660-305(6)(e). The comment regarding buckets and sluices is supported in the original proposal.
<b>WAC 220-660-305 Suction Dredging</b>			
220-660-305(8)	Retain the suction dredging reporting requirement. Ecology may re-open additional waters to motorized suction dredging. Removal of the reporting provision would preclude WDFW from implementing reporting which is critical for meaningful oversight and management.	Annual reporting of suction dredging activity was intended to assist WDFW in evaluating the extent and impact of freshwater suction dredging statewide. The extensive prohibitions on motorized or gravity siphon aquatic mining enacted in ESHB 1261 eliminate the need for statewide assessment. The remaining data that may be collected would not assist in further protection of fish life.  Ecology's designations of salmonid spawning, rearing and migration locations are not likely to change frequently. They are identified in WAC 173-201A-600 and changes would require significant legislative rule making.  Should a future need arise to collect suction dredging data, WAC 200-600-050(13)(d) allows for reporting requirements in HPA permits.	No changes proposed because eliminating the reporting requirement represents the least burdensome alternative that will achieve the goals and objectives of this proposal.

Topic or WAC	Comment	WDFW Response	How final proposed rule reflects this comment
220-660-305(5)(e)	Remove the word salmonid and only use the words salmon and steelhead.	This is a general comment, but the term "salmonid" only occurs in this subsection of the rule proposal. It is part of the name of a specific water quality category found in WAC 173-201A-200.	No change proposed because using the alternate language would make the reference inaccurate.



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## C. Comments on rule implementation

Suggestions and comments included:

1. Exempt current HPA holders from rules until the day of the HPA expiration.
2. We want to encourage WDFW to continue collaborative enforcement with the Department of Ecology. WDFW's Habitat and Enforcement staff are extremely familiar with not only mining claims and sites, but also the mining community itself. Visits by WDFW staff, engaging with miners on site, can be extremely helpful in further educating the mining community about the new law, regulations and enforcement.

### Commenters:

One individual, Snoqualmie Tribe and 66 businesses and organizations in a joint letter

### WDFW Response:

WDFW will not rescind any existing HPAs. However, permits may no longer be usable if they are written for motorized or gravity siphon aquatic mining in areas now prohibited by law. Presently, all unexpired permits are in areas where motorized or gravity siphon aquatic mining is now prohibited. However, permittees may continue to use their permits for non-prohibited activities.

WDFW recognizes that both customer service and fish life protection are served when our staff consult on permits, conduct inspections, and perform site inspections and on-site technical assistance. WDFW will endeavor to conduct site visits to active HPA sites as necessary within constraints of agency resources. We recognize that site visits provide an opportunity for our staff to coach permittees into compliance using education and technical assistance.

Please note, WDFW will not be making compliance visits to sites in prohibited areas specifically for the enforcement of those prohibitions. WDFW staff will continue to communicate with Ecology, but enforcement of the prohibitions in RCW 90.48.615 are ultimately under the jurisdiction of Ecology.

### How the final rule reflects these comments:

The comments do not directly address the proposed rule, so no changes are made to the final rule based on these comments.

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## **Appendix A - List of Commenters**

WDFW received 32 comment letters and emails. One letter was sent from the Washington Wild coalition and jointly signed by 66 businesses and organizations.

### ***Commenters sending individual letters or emails:***

Matthew Baerwalde, Snoqualmie Tribe; Charles Ballard; Eero Bremer; Dave Caldiera; Thomas Chase; Harry Davis; Michael Dunican; Steve Emrich; Brett Foley; Tami Gilden; Mike Gohl; Kevin Grayson; William Hayton; Matthew Holp; Jerry Johnson; Michael Kearney, Washington Department of Natural Resources; Haley Kennard, Makah Tribe; Ilene Le Vee; Michael Lindsay; Lawrence Lombardo; David Lont; Bryan McKeehan; Mike Oster; Dennis Petersen; Jeremiah Remus; Virgil Renicker; Levi Schauman; Billie Taylor-Hurd. Two commentors signed with only a first name.

### ***Organizations signing the joint comment letter from Washington Wild Coalition:***

Alliance; Alpine Lakes Protection Society; American Rivers, Rivers of Puget Sound & Columbia Basin; Art Wolfe, Inc.; Bale Breaker Brewing Co.; Black Hills Audubon Society; Cascade Forest Conservancy; Cascadia Wildlands; Center for Environmental Law & Policy; Chuckanut Brewery; Clark-Skamania Flyfishers; Columbia Riverkeeper; Conservation Northwest; Duna Fisheries, LLC; Earth Ministry/Washington Interfaith Power & Light; Eastside Audubon; Fish Not Gold; FOGH (Friends of Grays Harbor); Fremont Brewing; Friends of Heybrook Ridge; Friends of the Issaquah Salmon Hatchery; Grays Harbor Audubon Society; Greater Bellingham Running Club; Hellbent Brewing Company; Inland Empire Fly Fishing Club; Issaquah Alps Trails Club; Kettle Range Conservation Group; Lucky Envelope Brewing; Methow Valley Citizens Council; MidFORC Coalition; MiiR; Mount Baker Club; Mountain Gear, Inc; Native Fish Society; NOLS Pacific Northwest; North Cascades Audubon Society; North Cascades Conservation Council; North Central Washington Audubon Society; Northwest Fly Anglers; Northwest Watershed Institute; Okanogan Highlands Alliance; Old Stove Brewing, LLC; Pacific Rivers; Pilchuck Audubon Society; RE Sources; Save Our Wild Salmon Coalition; Skagit Audubon Society; Sky Valley Chamber of Commerce & Visitor Information Center; Skykomish Valley Environmental & Economic; Spokane Riverkeeper; Stoup Brewing; The Lands Council; The Rainier Audubon Society; The Wilderness Society; Three Rivers Chapter of Trout Unlimited; Troutwater Fly Shop and Guide Service; WA State Council of Fly Fishers International; Washington Chapter Sierra Club; Washington Council of Trout Unlimited; Washington Wildlife Federation; Watershed Pub & Kitchen; Western Environmental Law Center; Whatcom Land Trust; Wild Steelhead Coalition; Wildwater River Guides; Women for Wild Lands.

### ***SEPA DNS 20-059 Comments were received from the following:***

Linda Paralez, Jefferson County Department of Community Development; Department of Ecology, Southwest Regional Office.

## Appendix B – Washington Wild Coalition letter



January 29, 2021

Mr. Larry Carpenter  
Chair  
WA Department of Fish & Wildlife  
Commission  
600 Capitol Way N.  
Olympia, Washington 98504

Ms. Theresa Nation  
Habitat Division  
WA Department of Fish & Wildlife  
PO Box 43200  
Olympia, Washington 98504-3200

**RE: Joint Comments on Draft Regulations for ESHB 1261**

Dear Washington Department of Fish and Wildlife Commissioners:

Thank you for the opportunity to comment on the proposed rules for ESHB 1261. Many of the 66 undersigned organizations signed a letter sent to the Washington Department of Fish and Wildlife (WDFW) Directors on April 1, 2020 urging the adoption of strong regulations that match the intent of the law.

Passage of this legislation was the result of a decade-long hard-fought win for salmon recovery, orca whales, and clean water. The law bans the practice of motorized suction dredge mining in Washington rivers and streams that have been designated as critical salmon habitat to protect the hundreds of

millions of dollars of investment in salmon habitat restoration efforts by federal, state, and municipal governments, conservation organizations and Tribes.

We appreciate the overall good work and diligence of the agency in advancing these rules consistent with the intent of the law. These proposed rules are extremely timely as more and more Washingtonians begin to find recreational opportunities in our vital salmon and steelhead watersheds and we continue to wrestle with the impacts of habitat degradation.

We believe the proposed rules address our concerns regarding the implementation of ESHB 1261 except for the removal of WAC 220-660-305(8). While we appreciate the concept that because of ESHB 1261 not as many motorized miners will be seeking HPAs, we still believe, as Department of Ecology continues to refine which waters motorized mining may be permitted, requiring reporting is necessary and precludes future revisions back to a reporting mechanism if more waters are opened to motorized mining.

We also want to encourage WDFW to continue collaborative enforcement with the Department of Ecology. WDFW's Habitat and Enforcement staff are extremely familiar with not only mining claims and sites, but also the mining community itself. Visits by WDFW staff, engaging with miners on site, can be extremely helpful in further educating the mining community about the new law, regulations, and enforcement.

Again, thank you for your good work on implementing ESHB 1261.

-  
Sincerely,

Kim McDonald  
President  
Fish Not Gold

J Michelle Swope  
Washington Regional Coordinator  
Native Fish Society

Tom Uniack  
Executive Director  
Washington Wild

Mike Petersen  
Executive Director  
The Lands Council

Bill Arthur  
Vice Conservation Chair  
Washington Chapter Sierra Club

Rich Simms  
President  
Wild Steelhead Coalition

Brad Throssell  
State Chair  
Washington Council of Trout Unlimited

Lucy Brookham  
Policy Manager  
Cascade Forest Conservancy

Steve Jones  
Conservation Chairman  
Clark-Skamania Flyfishers

Brett VandenHeuvel  
Executive Director  
Columbia Riverkeeper

Trish Rolfe  
Executive Director  
Center for Environmental Law & Policy

Rick McGuire  
President  
Alpine Lakes Protection Society

Sarah Kliegman  
co-Executive Director  
Okanogan Highlands Alliance

Ann Darlington  
BOD President  
Friends of Heybrook Ridge

Allen Gibbs  
Vice President  
Pilchuck Audubon Society

Jon Bowne  
President  
Inland Empire Fly Fishing Club

Jay Galvin  
President  
The Rainier Audubon Society

Arthur Campbell  
President  
North Central Washington Audubon Society

Paul Fish  
President  
Mountain Gear, Inc

Kevin and Meghann Quinn  
Co-Owners  
Bale Breaker Brewing Co.

Robert Kaye  
Chair, Conservation Committee  
North Cascades Audubon Society

Amy Grondin & Greg Freidrichs  
Owners  
Duna Fisheries, LLC

Kelsey, Ben, Liz & Craig Curran  
Owners  
Watershed Pub & Kitchen

Raymond Kwan & Barry Chan  
Owners  
Lucky Envelope Brewing

Mike Clancy  
Conservation Chair  
WA State Council of Fly Fishers International

Brian Stan  
Co-Founder  
Old Stove Brewing, LLC

Debbie Cople  
Director  
Sky Valley Chamber of Commerce & Visitor  
Information Center

Sara Nelson  
Co-Founder/Owner  
Fremont Brewing

Larry Lober  
Membership Coordinator  
Greater Bellingham Running Club

Dave Werntz  
Science and Conservation Director  
Conservation Northwest

Mark Boyar  
President  
MidFORC Coalition

Arthur (R.D.) Grunbaum,  
President  
FOGH (Friends of Grays Harbor)

Sam Merrill  
Conservation Committee Chair  
Black Hills Audubon Society  
Anna Wille  
Co-founder  
Women for Wild Lands

Jack Guinn  
Owner  
Hellbent Brewing Company

Inessa Pearce  
President  
Skykomish Valley Environmental & Economic  
Alliance

Josh Laughlin  
Executive Director  
Cascadia Wildlands

Wendy McDermott  
Director, Rivers of Puget Sound & Columbia  
Basin  
American Rivers

Jeremy Lucas  
Conservation Chair  
Eastside Audubon

Peter Bahls  
Executive Director  
Northwest Watershed Institute

Shannon Wright  
Executive Director  
RE Sources

Michael Davis  
Mount Baker Club  
Bellingham, WA

Lara Zahaba  
Co-Owner | Marketing & Communications  
Stoup Brewing

John McGlenn  
President  
Washington Wildlife Federation

Mark Taylor  
President  
Three Rivers Chapter of Trout Unlimited

Larry Franks  
Board Vice President  
Friends of the Issaquah Salmon Hatchery

Mari and Will Kemper  
Owners  
Chuckanut Brewery

Jerry White, Jr.  
Executive Director,  
Spokane Riverkeeper

Janet Strong  
President  
Grays Harbor Audubon Society

Johnny Boitano  
Co-Owner/Guide  
Troutwater Fly Shop and Guide Service

Joseph Bogaard  
Executive Director  
Save Our Wild Salmon Coalition

Lance Reif  
Owner  
Wildwater River Guides

Timothy Coleman  
Executive Director  
Kettle Range Conservation Group

Susan Jane M. Brown  
Staff Attorney  
Western Environmental Law Center

Greg Haller  
Conservation Director  
Pacific Rivers

Timothy Manns  
Conservation Chair  
Skagit Audubon Society

Phil Fenner  
President  
North Cascades Conservation Council

Gabe Epperson  
Executive Director  
Whatcom Land Trust

Cecilia Vollert  
Brand Manager  
Miir

Art Wolfe  
Conservation Photographer  
Art Wolfe, Inc.

Lindsay Fricke  
Executive Director  
Issaquah Alps Trails Club

Matt Moore  
President  
Northwest Fly Anglers

Paul Satzinger  
Operations Manager  
NOLS Pacific Northwest

Megan Birzell  
Washington State Director  
The Wilderness Society

Jasmine Minbashian  
Executive Director  
Methow Valley Citizens Council

LeeAnne Beres  
Executive Director  
Earth Ministry/Washington Interfaith Power &  
Light

**WAC 220-660-030 Definitions.** The following are definitions for terms used in this chapter.

(1) "Abandoning an excavation site" means not working an excavation site for forty-eight hours or longer.

(2) "Aggregate" means a mixture of minerals separable by mechanical or physical means.

(3) "Aquatic beneficial plant" means all native and nonnative aquatic plants except those on the state noxious weed lists in WAC 16-750-005, 16-750-011, and 16-750-015.

(4) "Aquatic invasive species" means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include certain species of waterfowl, amphibians, fish, shellfish, and nutria.

(5) "Aquatic noxious weed" means an aquatic plant on the state noxious weed lists in WAC 16-750-005, 16-750-011, and 16-750-015.

(6) "Aquatic plant" means a native or nonnative emergent, submersed, partially submersed, free-floating, or floating-leaved plant species that is dependent upon fresh, brackish, or marine water ecosystems and includes all stages of development and parts.

(7) "*Aquatic Plants and Fish* pamphlet" means a document that details the rules for aquatic noxious weed and aquatic beneficial plant removal and control activities and that serves as the hydraulic project approval for certain plant removal and control activities in Washington state.

(8) "Artificial materials" means clean, inert materials used to construct diversion structures for mineral prospecting.

(9) "Associated human-made agricultural drainage facilities" means dikes, drains, pumps, drainage tiles, and drainage pipe made by humans that protect agricultural land.

(10) "Authorized agent" means someone who is authorized by the applicant to act on behalf of the applicant.

(11) "Bank" means any land surface landward of the ordinary high water line next to a body of water and constrains the water except during floods. The term "bank" also includes all land surfaces of islands within a body of water that are below the flood elevation of the surrounding body of water.

(12) "Bankfull width" means the width of the surface of the water at the point where water just begins to overflow into the active flood plain. In streams where there is no flood plain it is often the width of a stream or river at the dominant channel forming flow that reoccurs every one to two years.

(13) "Beach area" means the beds between the ordinary high water line and extreme low water.

(14) "Bed" means the land below (waterward of) the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been artificially altered.

(15) "Bed materials" means naturally occurring materials such as gravel, cobble, rock, rubble, sand, mud, and aquatic plants that form the beds of state waters. Bed materials are also found in deposits or bars above the wetted perimeter of water bodies.

(16) "Board" means the pollution control hearings board created in chapter 43.21B RCW.

(17) "Bottom barrier or screen" means sheets of synthetic or natural fiber material used to cover and kill plants growing on the bottom of a watercourse.

(18) "Boulder" means a stream substrate particle larger than ten inches in diameter.

(19) "Bridge shadow" means the area under a bridge defined by the shadow cast by the sun. This area may not receive enough light and rain to support the plant growth needed for biotechnical bank stabilization.

(20) "Channel bed width" means the width of the bankfull channel, although bankfull may not be well defined in some channels. For those streams which are nonalluvial or do not have flood plains, the channel width must be determined using features that do not depend on a flood plain.

(21) "Chronic danger" means a condition declared by the county legislative authority in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(22) "Chronic danger HPA" means a written hydraulic project approval issued in response to a chronic danger declaration made by a county legislative authority.

(23) "Classify" means to sort aggregate by hand or through a screen, grizzly, or similar device to remove the larger material and concentrate the remaining aggregate.

(24) "Commission" means the Washington state fish and wildlife commission.

(25) "Compensatory mitigation" means the restoration, creation, enhancement, or preservation of aquatic resources to compensate for adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

(26) "Concentrator" means a device used to physically or mechanically separate the valuable mineral content from aggregate.

(27) "Control" of an aquatic plant means to prevent all seed production and to prevent the dispersal of all propagative parts capable of forming new plants.

(28) "County legislative authority" means a county commission, council, or other legislative body.

(29) "Crevicing" means removing aggregate from cracks and crevices using hand-held mineral prospecting tools (~~(or water pressure)~~).

(30) "Critical food fish or shellfish habitats" means those habitats that are essential to fish life. These habitats include habitats of special concern listed in WAC 220-660-100 and 220-660-320.

(31) "Department" means the department of fish and wildlife.

(32) "Design flood" means a stream discharge of a specific rate and probability best suited to ensure the project design creates and shapes habitat or protects property and structures to a given level of risk (e.g., the 100-year design flood).

(33) "Director" means the director of the department of fish and wildlife.

(34) "Ditch" means a wholly artificial watercourse or a natural watercourse (waters of the state) altered by humans.

(35) "Diver-operated dredging" means the use of portable suction or hydraulic dredges held by SCUBA divers to remove aquatic plants.



(36) "Dredging" means removal of bed material using other than hand-held tools. This does not include metals mining and milling operations as defined in chapter 78.56 RCW.

(37) "Dryland dredge" means a suction dredge with a nozzle capable of introducing water under pressure from the suction dredge pump to the tip of the nozzle.

(38) "Early infestation" of an aquatic noxious weed means a stage of development, life history, or area of coverage that makes one hundred percent control and eradication likely to occur.

(39) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(40) "Emergency HPA" means a verbal or written hydraulic project approval issued in response to a declaration of emergency.

(41) "Entrained" means the entrapment of fish into a watercourse diversion that has no screen, into high velocity water along the face of an improperly designed screen, or into the vegetation cut by a mechanical harvester.

(42) "Equipment" means any device powered by internal combustion; hydraulics; electricity, except less than one horsepower; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

(43) "Eradication" of an aquatic noxious weed means to eliminate it within an area of infestation.

(44) "Established ford" means a crossing place in a watercourse that was in existence and used annually before 1986 or permitted by the department in or after 1986, and has identifiable approaches on the banks.

(45) "Excavation line" means a line on the dry bed at or parallel to the water's edge. The department determines the distance from the water's edge for each project site. The excavation line may change with water level fluctuations.

(46) "Excavation site" means the pit, furrow, or hole from which aggregate is removed to process and recover minerals, or into which wastewater is discharged to settle out sediments.

(47) "Excavation zone" means the area between the excavation line and the bank or the center of the gravel bar.

(48) "Expedited HPA" means a written hydraulic project approval issued in those instances where when normal permit processing would result in a significant hardship for the applicant or unacceptable damage to the environment.

(49) "Farm and agricultural land" means those lands identified in RCW 84.34.020.

(50) "Filter blanket" means one or more layers of pervious materials (organic, mineral, or synthetic) designed and installed to provide drainage, yet prevent the movement of soil particles by flowing water.

(51) "Fish conservation bank" means a habitat creation, restoration, or enhancement project intended to provide a bank of credits to compensate for unavoidable impacts to habitat that supports fish life from future development projects. Fish conservation banks are managed to optimize desired habitat for ESA-listed and at-risk fish species.

(52) "Fish habitat" or "habitat that supports fish life" means habitat, which is used by fish life at any life stage at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.

- (53) "Fish habitat enhancement project" means a hydraulic project that meets criteria in RCW 77.55.181 (1) (a).
- (54) "Fish habitat improvement structures" or "stream channel improvements" means natural materials such as large wood, rock, or synthetic materials such as chain or rope placed in or next to bodies of water to improve existing conditions for fish life. Examples are engineered logjams, large woody material, and boulders.
- (55) "Fish guard" means a device installed at or near a surface water diversion head gate, or on the intake of any device used for (~~pumping~~) removing water from fish-bearing waters, to prevent entrainment, injury, or death of fish life. Fish guards physically keep fish from entering the diversion or (~~pump~~) intake and do not rely on avoidance behavior.
- (56) "Fish life" means all fish species, including food fish, shellfish, game fish, unclassified fish and shellfish species, and all stages of development of those species.
- (57) "Fish passage improvement structure" means artificial structures that are used to provide passage through, over, and/or around artificial barriers. They provide a graduated change in gradient with refuge areas allowing fish to pass barriers.
- (58) "Fish screen" means "fish guard."
- (59) "Flood gate" means a structure to control flooding through which water flows freely in one direction but is prevented from flowing in the other direction.
- (60) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that must not be fished for except as authorized by rule of the commission.
- (61) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter 76.09 RCW.
- (62) "Frequent scour zone" means the area between the wetted perimeter and the toe of the slope. The frequent scour zone is comprised of aggregate, boulders, or bedrock. Organic soils are not present in the frequent scour zone.
- (63) "Freshwater area" means those state waters and associated beds waterward of the ordinary high water line that are upstream of stream and river mouths. Freshwater areas also include all lakes, ponds, and tributary streams and surface-water-connected wetlands that provide or maintain habitat that supports life. This definition does not include irrigation ditches, canals, stormwater treatment, and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.
- (64) "Functional grating" means the percent open area of the grating that is not covered or blocked by any objects such as structural components, framing wood, flotation tubs, or objects placed on the surface of the grating.
- (65) "Ganged equipment" means two or more pieces of mineral prospecting equipment coupled together to increase efficiency. An example is adding a second sluice to a high-banker.
- (66) "General provisions" means those provisions that are in every HPA.
- (67) "*Gold and Fish* pamphlet" means a document that details the rules for conducting small-scale and other prospecting and mining activities and that serves as the hydraulic project approval for certain mineral prospecting and mining activities in Washington state.

(68) "Gravity siphon aquatic mining" means any prospecting or mining activity that uses water drawn into a hose, pipe, or tube via the effects of gravity or siphon to excavate, concentrate, or process aggregate.

(69) "Habitat function" means the natural attributes of a given habitat that support the fish life that rely upon that habitat.

~~((69))~~ (70) "Habitat value" means an estimate of habitat quality, ecologically important functions and the relative value of the hydraulic project site within the watershed.

~~((70))~~ (71) "Hand-held equipment" means equipment held by hand and powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are chainsaws, drills, and grinders.

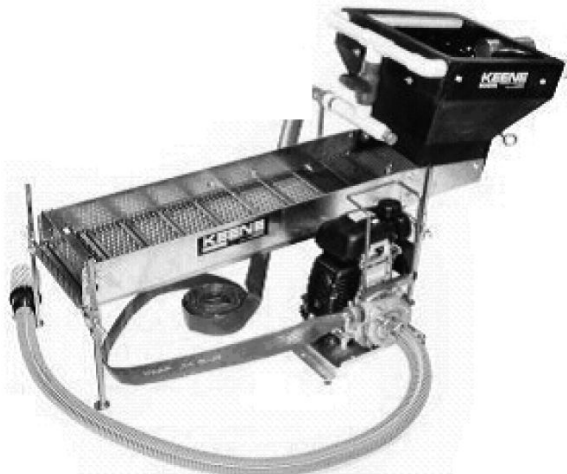
~~((71))~~ (72) "Hand-held mineral prospecting tools" means ~~((a))~~ tools used for mineral prospecting that are held by hand and ~~((are not))~~ do not have moving parts powered, in whole or in part, by internal combustion, electricity, hydraulics, or pneumatics. Examples ~~((are metal detectors))~~ include, but are not necessarily limited to, shovels, picks, trowels, hammers, and pry bars ~~((, hand-operated winches, and battery-operated pumps specific to prospecting; and~~

~~((b) Vac-pacs))~~.

~~((72))~~ (73) "Hand-held tools" means tools held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are shovels, rakes, hammers, pry bars, and cable winches. This definition does not apply to hand-held tools used for mineral prospecting. See "hand-held mineral prospecting tools."

~~((73))~~ (74) "Hatchery" means any water impoundment or facility used for the captive spawning, hatching, or rearing of fish life.

~~((74))~~ (75) "High-banker" means a stationary concentrator operated outside the wetted perimeter of the body of water from which the water is removed and that uses water supplied by hand or by pumping. A high-banker consists of a sluice box, hopper, and water supply. Aggregate is supplied to the high-banker by means other than suction dredging. This definition excludes rocker boxes. See Figure 1.



**Figure 1: High-banker**

~~((75))~~ (76) "High-banking" means using a high-banker to recover minerals.

((76)) (77) "Hydraulic drop" means an abrupt drop in water surface elevation.

((77)) (78) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

((78)) (79) "Hydraulic project approval" or "HPA" means:

(a) A written approval for a hydraulic project issued under this chapter and signed by the director of the department or the director's designee; or

(b) A verbal approval for an emergency hydraulic project issued under this chapter by the director of the department or the director's designee; or

(c) The following printed pamphlet approvals:

(i) A "*Gold and Fish*" pamphlet issued under this chapter by the department, which identifies and authorizes specific (~~minor hydraulic project activities for~~) small scale mineral prospecting and placer mining activities; or

(ii) An "*Aquatic Plants and Fish*" pamphlet issued under this chapter by the department, which identifies and authorizes specific aquatic plant removal and control activities.

((79)) (80) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

((80)) (81) "In-lieu fee (ILF) program" means a state or federal certified program authorizing a person pay a fee to a third party instead of conducting project-specific mitigation or buying credits from a mitigation or fish conservation bank.

((81)) (82) "In-water blasting" means the use of explosives on, under, or in waters of the state, or in any location adjacent to the waters of the state, where blasting could impact fish life or habitat that supports fish life.

((82)) (83) "Job site" means the area of ground including and immediately adjacent to the area where work is conducted under an HPA. For mineral prospecting and placer mining projects, the job site includes the excavation site.

((83)) (84) "Joint aquatic resources permit application" or "JARPA" means a form provided by the department and other agencies that a person may submit to request a written HPA for a hydraulic project.

((84)) (85) "Lake" means any natural standing fresh waters or artificially impounded natural fresh waters of the state, except impoundments of the Columbia and Snake rivers.

((85)) (86) "Large woody material" means trees or tree parts larger than four inches in diameter and longer than six feet, or rootwads, wholly or partially waterward of the ordinary high water line.

((86)) (87) "Macroalgae" means any of the nonvascular aquatic plant species (the red, green, or brown seaweeds) that can be seen without using a microscope. They may be attached to the substrate or other macroalgae by a holdfast, or found drifting individually or in mats.

((87)) (88) "Maintenance" means repairing, remodeling, or making minor alterations to a facility or project to keep the facility or project in properly functioning and safe condition.

((88)) (89) "Major modification" means any change to a hydraulic project approval that is not a minor modification.

~~((+89+))~~ (90) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include overnight or live-aboard boating accommodations.

~~((+90+))~~ (91) "Marine terminal" means a public or private commercial wharf located in navigable waters of the state and used, or intended to be used, as a port or facility for storing, handling, transferring, or transporting goods to and from vessels.

~~((+91+))~~ (92) "Mean annual flood" means the average of all the annual peak floods of record.

~~((+92+))~~ (93) "Mean higher high water" or "MHHW" means the tidal elevation obtained by averaging each day's highest tide at a particular location over a period of nineteen years, as determined by National Oceanic and Atmospheric Administration (NOAA). It is measured from mean lower low water, which is a reference datum used to delineate waters of the state in saltwater areas.

~~((+93+))~~ (94) "Mean lower low water" or "MLLW" means the 0.0 feet tidal elevation, as determined by NOAA. It is determined by averaging each day's lowest tide at a particular location over a period of nineteen years. MLLW is a reference datum used to delineate waters of the state in saltwater areas. NOAA provides detailed information on their "Tides, Currents, and Predictions" website.

~~((+94+))~~ (95) "Mechanical harvesting and cutting" means partially removing or controlling aquatic plants by using aquatic mechanical harvesters, which cut and collect aquatic plants, and mechanical cutters, which only cut aquatic plants.

~~((+95+))~~ (96) "Mineral prospect" or "mineral prospecting" means to excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment.

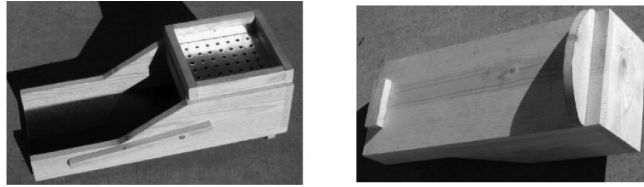
~~((+96+))~~ (97) "Mineral prospecting equipment" means any natural or manufactured device, implement, or animal (other than the human body) used in any aspect of prospecting for or recovering minerals.

~~((+97+))~~ (98) "Mini high-banker" means a high-banker with a rifle area of three square feet or less. See Figure 2.



**Figure 2: Mini high-banker**

~~((98))~~ (99) "Mini rocker box" means a rocker box with a riffle area of three square feet or less. See Figure 3.



**Figure 3: Mini rocker box (top view and bottom view)**

~~((99))~~ (100) "Mining" means the production activity that follows mineral prospecting.

~~((100))~~ (101) "Minor modification" means a small change in work timing or plans and specifications of a hydraulic project.

~~((101))~~ (102) "Mitigation" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.

~~((102))~~ (103) "Mitigation bank" means a site where wetlands or other aquatic resources are restored, created, enhanced, or preserved. The bank exists expressly to provide compensatory mitigation before unavoidable impacts to wetlands or other aquatic resources occur.

~~((103))~~ (104) "Mitigation sequence" means the successive steps that the department and the applicant must consider and implement to protect fish life when constructing or performing work. These steps must be considered and implemented in the order listed:

(a) Avoid the impact altogether by not taking a certain action or parts of an action.

(b) Minimize unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking steps to reduce impacts.

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reduce or eliminate the impact over time.

(e) Compensate for remaining unmitigated impacts by replacing, enhancing, or providing substitute resources or environments.

(f) Monitor the impact and take appropriate corrective measures to reach the identified goal.

~~((104))~~ (105) "Motorized or gravity siphon equipment" means any form of motorized equipment including, but not limited to, a motorized suction dredge or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(106) "Multiple site permit" means a hydraulic project approval issued to a person under RCW 77.55.021 for hydraulic projects occurring at more than one specific location and which includes site-specific requirements.

~~((105))~~ (107) "Natural conditions" means environmental situations that occur or are found in nature. This does not include artificial or manufactured conditions.

~~((106))~~ (108) "Nearshore" means shallow waters where sunlight reaching the bed is sufficient to support the growth of submerged aquatic vegetation.

~~((107))~~ (109) "Nearshore zone" means the three critical "edge" habitats as follows: The edge between upland and aquatic environments, the edge between the shallow productive zone and deep water, and the edge between fresh and marine waters.

~~((108))~~ (110) "No net loss" means:

(a) Sequentially for avoiding impacts, minimizing unavoidable impacts, and compensating for remaining adverse impacts to fish life.

(b) Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for net loss of habitat functions necessary to sustain fish life.

(c) Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for loss of area by habitat type.

(d) Mitigation required to achieve no net loss should benefit the fish life being impacted.

~~((109))~~ (111) "Ordinary high water line" or "OHWL" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining freshwater is the elevation of the mean annual flood.

~~((110))~~ (112) "Pan" means an open metal or plastic dish operated by hand to separate gold or other minerals from aggregate by washing the aggregate. See Figure 4.



**Figure 4: Pan**

~~((111))~~ (113) "Panning" means the use of a pan to wash aggregate.

~~((112))~~ (114) "Permanent ford" means a ford approved by the department that is in place for more than one operating season.

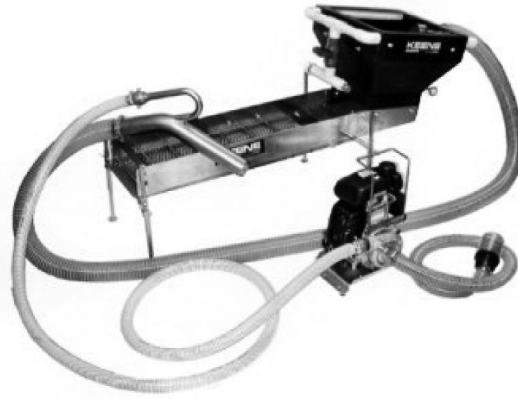
~~((113))~~ (115) "Person" means an applicant, authorized agent, permittee, or contractor. The term person includes an individual, a public or private entity, or organization.

~~((114))~~ (116) "Placer" means a glacial or alluvial deposit of gravel or sand containing eroded particles of minerals.

~~((115))~~ (117) "Pool" means a portion of the stream with reduced current velocity, often with water deeper than the surrounding areas.

~~((116))~~ (118) "Power sluice" means "high-banker."

~~((117))~~ (119) "Power sluice/suction dredge combination" means a machine that can be used as a power sluice, or with minor modifications, as a suction dredge. See Figure 5.



**Figure 5: Power sluices/suction dredge combination**

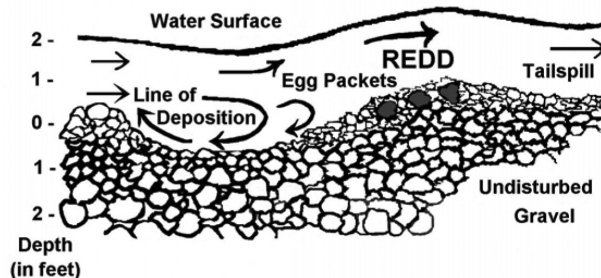
~~((118))~~ (120) "Process aggregate" or "processing aggregate" means the physical or mechanical separation of the valuable mineral content within aggregate.

~~((119))~~ (121) "Protection of fish life" means avoiding, minimizing unavoidable impacts, and compensating for remaining impacts to fish life and the habitat that supports fish life through mitigation sequencing.

~~((120))~~ (122) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum virgatum* as classified in RCW 17.10.010(10) and defined in RCW 17.26.020 (5) (b).

~~((121))~~ (123) "Qualified professional" means a scientist, engineer, or technologist specializing in a relevant applied science or technology including fisheries or wildlife biology, engineering, geomorphology, geology, hydrology, or hydrogeology. This person may be certified with an appropriate professional organization, and acting under that association's code of ethics and subject to disciplinary action by that association. A qualified professional can also be someone who, through demonstrated education, experience, accreditation, and knowledge relevant to the particular matter, may be reasonably relied on to provide advice within that person's area of expertise. This definition does not supersede other state laws that govern the qualifications of professionals that perform hydraulic projects.

~~((122))~~ (124) "Redd" means a nest made in gravel, consisting of a depression dug by a fish for egg deposition, and associated gravel mounds. See Figure 6.



**Figure 6: Cross-section of a typical redd**



~~((123))~~ (125) "Rehabilitation" means major work required to restore the integrity of a structurally deficient or functionally obsolete structure. This can include partial replacement of a structure.

~~((124))~~ (126) "Replacement" means the complete removal of an existing structure and construction of a substitute structure in the same general location.

~~((125))~~ (127) "Riffle" means:

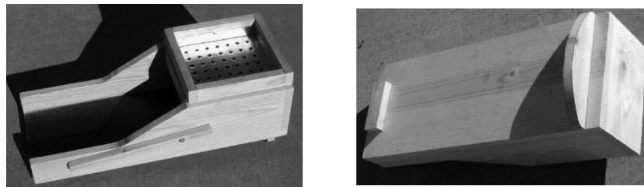
(a) The bottom of a concentrator containing a series of interstices or grooves to catch and retain a mineral such as gold; or

(b) A short, relatively shallow and coarse-bedded length of stream over which the stream flows at higher velocity and higher turbulence than it normally does in comparison to a pool.

~~((126))~~ (128) "River" means "watercourse."

~~((127))~~ (129) "Riparian zones" means the land adjacent to streams, rivers, ponds, lakes, and those wetlands whose soils and vegetation are influenced by ponded or channelized water. They are the transition areas between aquatic and upland habitats often with elements of both ecosystems.

~~((128))~~ (130) "Rocker box" means a nonmotorized concentrator consisting of a hopper attached to a cradle and a sluice box operated with a rocking motion. See Figure 7.



**Figure 7: Rocker box**

~~((129))~~ (131) "Rotovation" means the use of aquatic rotovators, machines that have underwater rototiller-like blades, to uproot aquatic plants as a means of control.

~~((130))~~ (132) "Roughened channel" means to construct a channel of a graded mix of sediment with enough roughness and hydraulic diversity to achieve fish passage. Roughened channels are designed to resist erosion and are often built at a steeper gradient than the prevailing channel.

~~((131))~~ (133) "Saltwater area" means those state waters and associated beds waterward of the ordinary high water line in Puget Sound, the Strait of Juan de Fuca and the open coast. Saltwater areas include estuaries and other surface-water-connected wetlands that provide or maintain habitat that support fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

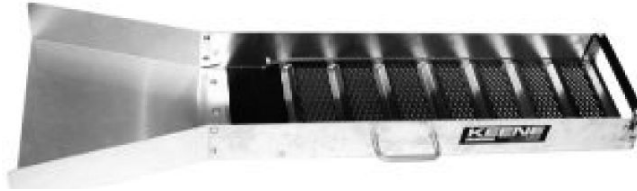
~~((132))~~ (134) "Scientific measurement devices" means devices that measure and/or record environmental data, such as staff gauges, tide gauges, water recording devices, water quality testing and improvement devices, and similar instruments.

~~((133))~~ (135) "Seagrass" means native *Zostera* species, *Ruppia maritima*, and *Phyllospadix* species.

~~((134))~~ (136) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that must not

be taken except as authorized by rule of the commission. The term shellfish includes all stages of development and the bodily parts of shellfish species.

~~((135))~~ (137) "Sluice" means a trough equipped with riffles across its bottom used to recover gold and other minerals with the use of flowing water. See Figure 8.



**Figure 8: Sluice**

~~((136))~~ (138) "Spartina" means *Spartina alterniflora*, *Spartina anglica*, *Spartina x townsendii*, and *Spartina patens* as classified in RCW 17.10.010(10) and defined in RCW 17.26.020 (5) (a).

~~((137))~~ (139) "Special provisions" means those requirements that are part of a HPA, are site- or project-specific, and supplement or amend the technical provisions.

~~((138))~~ (140) "Spiral wheel" means a hand-operated or battery-powered rotating pan used to recover gold and minerals with the use of water. See Figure 9.



**Figure 9: Spiral wheel**

~~((139))~~ (141) "Stable slope" means a slope without measurable evidence of slumping, sloughing, or other movement. Stable slopes will not show evidence of landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. Woody vegetation is typically present on stable slopes.

~~((140))~~ (142) "Suction dredge" means any motorized or nonmotorized device that removes aggregate from the bed, banks, or uplands by

means of vacuum created by water flowing through a tube or hose. Bulb sniffers are not considered suction dredges. See Figure 10.



**Figure 10: Suction dredge**

~~((141))~~ (143) "Suction dredging" means using a suction dredge to recover gold and other minerals.

~~((142))~~ (144) "Tailings" means the waste material that remains after processing aggregate to remove valuable mineral content.

~~((143))~~ (145) "Temporary ford" means a ford that is in place for no more than one operating season or less.

~~((144))~~ (146) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

~~((145))~~ (147) "Toe of the bank" means the distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged waterward of the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure where it meets the stream bed or marine beach or bed.

~~((146))~~ (148) "Toe of the slope" means the base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.

~~((147))~~ (149) "Unimpeded fish passage" means the free movement of all fish species at any mobile life stage around or through a human-made or natural structure.

~~((148))~~ (150) "Unstable slope" means a slope with visible or measurable evidence of slumping, sloughing, or other movement. Evidence of unstable slopes includes landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. Woody vegetation is typically not present on unstable slopes.

~~((149))~~ "~~Vac-pac~~" means a motorized, portable vacuum that you use for prospecting. See Figure 11.



**Figure 11: Vac-pac**

~~(150))~~ (151) "Water crossing structures" means structures that span over, through, or under a watercourse. Examples are bridges, culverts, conduits, and fords.

~~((151))~~ (152) "Water right" means a certificate of water right, a vested water right or a claim to a valid vested water right, or a water permit, under Title 90 RCW.

~~((152))~~ (153) "Water body" means "waters of the state."

~~((153))~~ (154) "Watercourse," "river" or "stream" means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state. Watercourse also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream. Watercourse also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether or not the water is at peak level. A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

~~((154))~~ (155) "Waters of the state" or "state waters" means all salt and freshwaters waterward of the ordinary high water line and within the territorial boundary of the state.

~~((155))~~ (156) "Weed rolling" means the use of a mechanical roller designed to control aquatic plant growth.

~~((156))~~ (157) "Wetland(s)" is as defined in RCW 90.58.030.

~~((157))~~ (158) "Wetted perimeter" means the areas of a watercourse covered with water. The wetted perimeter varies with flow, discharge, and tides.

~~((158))~~ (159) "Woody vegetation" means perennial trees and shrubs having stiff stems and bark. Woody vegetation does not include grasses, forbs, or annual plants.

((159)) (160) "Written notice" or "written notification" means a communication through U.S. mail or email.

AMENDATORY SECTION (Amending WSR 20-11-019, filed 5/12/20, effective 6/12/20)

**WAC 220-660-050 Procedures—Hydraulic project approvals. (1)**

**Description:**

(a) There are six categories of HPAs: Standard, emergency, imminent danger, chronic danger, expedited, and pamphlet. These categories are discussed in more detail throughout this section. Most HPAs issued by the department are standard HPAs. Guidance for applying for an HPA is provided on the department's website.

(b) HPAs do not exempt a person from obtaining other necessary permits and following the rules and regulations of local, federal, and other Washington state agencies.

(2) **Fish life concerns:** Construction and other work activities in or near water bodies can kill or injure fish life directly and can damage or destroy habitat that supports fish life. Damaged or destroyed habitat can continue to cause lost fish life production for as long as the habitat remains altered. HPAs help ensure construction and other work is done in a manner that protects fish life.

(3) **Standard HPA:**

(a) The department issues a standard HPA when a hydraulic project does not qualify for an emergency, imminent danger, chronic danger, expedited or pamphlet HPA. An individual standard HPA is limited to a single project site. Some special types of standard HPAs may cover multiple project sites.

(b) Special types of standard HPAs:

(i) Fish habitat enhancement project (FHEP) HPA.

(A) Projects must satisfy the requirements in RCW 77.55.181(1) to be processed as a fish habitat enhancement project.

(B) Projects that are compensatory mitigation for a development or other impacting project are not eligible. This includes proposals for mitigation banks or in-lieu fee mitigation proposals. The sole purpose of the project must be for fish habitat enhancement.

(C) The department may reject an FHEP proposed under RCW 77.55.181 if the local government raises concerns during the comment period that impacts from the project cannot be mitigated by conditioning the HPA. The department will reject an FHEP if the department determines that the size and the scale of the project raises public health or safety concerns. If the department rejects a project for streamlined processing, the department must provide written notice to the applicant and local government within forty-five days of receiving the application.

(D) An applicant whose fish habitat enhancement project is rejected may submit a new complete written application with project modifications or additional information required for streamlined processing. An applicant may request that the department consider the project under standard HPA processing procedures by submitting a new complete written application for standard processing.

(ii) Multisite HPA.

(A) A standard HPA may authorize work at multiple project sites if:

(I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area;

(II) The primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and

(III) Work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

(B) The department may make an exception for projects the department has scoped prior to application submittal or when no prepermit issuance site visits are needed.

(iii) General HPA.

(A) The department may issue general HPAs to government agencies, organizations, or companies to perform the same work in multiple water bodies across a large geographic area.

(B) To qualify for a general HPA, projects must protect fish life:

(I) Technical provisions in the HPA must fully mitigate impacts to fish life;

(II) The projects must be relatively simple so that the HPA provisions are the same across all sites, and can therefore be permitted without site-specific provisions; and

(III) The projects must have little or no variability over time in site conditions or work performed.

(C) The general HPA will include a requirement that notice be given to the department when activities utilizing heavy equipment begin. The department may waive this requirement if the permittee and department meet annually to review scheduled activities for the upcoming year.

(D) The department and the applicant may negotiate the scope and scale of the project types covered. The department and the applicant must agree on the fish protection provisions required before the application is submitted.

(E) The department may reject applications for a general HPA if:

(I) The proposed project does not meet the eligibility requirements described in subsection (3)(b)(iii)(B) of this section; or

(II) The department and the applicant cannot agree on the fish protection provisions.

(F) The department must provide written notice of rejection of a general HPA application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures.

(iv) "Model" HPA.

(A) The department will establish a "model" HPA application and permitting process for qualifying hydraulic projects. To qualify, an individual project must comply with the technical provisions established in the application. Hydraulic projects that qualify for the model process must:

(I) Fully mitigate impacts to fish life in the technical provisions of the HPA;

(II) Be a low complexity project that minimizes misinterpretation of the HPA provisions allowing the HPA to be permitted without site-specific provisions; and

(III) Meet all of the eligibility requirements described in the model application.

(B) If needed to confirm project eligibility, the department may conduct a site visit before approving or rejecting a model application.

(C) The department may reject applications for model HPAs if:

(I) The plans and specifications for the project are insufficient to show that fish life will be protected; or

(II) The applicant or authorized agent does not fill out the application completely or correctly.

(D) The department must provide written notice of rejection of an application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures under this section, or may submit a new model application if the department rejected the application because the person did not fill out the original application correctly.

(4) **Emergency HPA:**

(a) Declaring an emergency.

(i) Authority to declare an emergency, or continue an existing declaration of emergency, is conveyed to the governor, the department, or to a county legislative authority by statute. An emergency declaration may be made when there is an immediate threat to life, the public, property, or of environmental degradation;

(ii) The county legislative authority must notify the department, in writing, if it declares an emergency;

(iii) Emergency declarations made by the department must be documented in writing;

(iv) When an emergency is declared, the department must immediately grant verbal approval upon request for work to protect life or property threatened by waters of the state because of the emergency, including repairing or replacing a stream crossing, removing obstructions, or protecting stream banks. The department may also grant written approval if the applicant agrees.

(b) If the department issues a verbal HPA, the department must follow up with a written HPA documenting the exact provisions of the verbal HPA within thirty days of issuing the verbal HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for emergency HPAs.

(d) The department may require a person to submit an as-built drawing within thirty days after the hydraulic project authorized in the emergency HPA is completed.

(e) Within ninety days after a hydraulic project authorized in an emergency HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(5) **Imminent danger HPA:**

(a) Authority to declare imminent danger is conveyed to the department or county legislative authority by statute. The county legislative authority must notify the department in writing if it determines that an imminent danger exists.

(b) Imminent danger declarations made by the department must be documented in writing.

(c) When imminent danger exists, the department must issue an expedited HPA upon request for work to remove obstructions, repair existing structures, restore banks, and to protect fish life or property.

(d) When imminent danger exists, and before starting work, a person must submit a complete written application to the department to obtain an imminent danger HPA. Compliance with the provisions of chap-

ter 43.21C RCW (State Environmental Policy Act) is not required for imminent danger HPAs.

(e) Imminent danger HPAs must be issued by the department within fifteen calendar days after receiving a complete written application. Work under an imminent danger HPA must be completed within sixty calendar days of the date the HPA is issued.

(f) Within ninety days after a hydraulic project authorized in an imminent danger HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

**(6) Chronic danger HPA:**

(a) The department must issue a chronic danger HPA upon request for work required to abate the chronic danger. This work may include removing obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish life, or protecting property.

(b) Authority to declare when a chronic danger exists is conveyed to a county legislative authority by statute. A chronic danger is a condition in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(c) The county legislative authority must notify the department in writing when it determines a chronic danger exists.

(d) When chronic danger is declared, and before starting work, a person must submit a complete written application to the department to obtain a chronic danger HPA. Unless the project also satisfies the requirements for fish habitat enhancement projects identified in RCW 77.55.181 (1)(a)(ii), compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is required. Projects that meet the requirements in RCW 77.55.181 (1)(a)(ii), will be processed under RCW 77.55.181(3), and the provisions of chapter 43.21C RCW will not be required.

**(7) Expedited HPA:**

(a) The department may issue an expedited HPA when normal processing would result in significant hardship for the applicant or unacceptable environmental damage would occur.

(b) Before starting work, a person must submit a complete written application to the department to obtain an HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for expedited HPAs. The department must issue expedited HPAs within fifteen calendar days after receipt of a complete written application. Work under an expedited HPA must be completed within sixty calendar days of the date the HPA is issued.

(d) Within ninety days after a hydraulic project authorized in an expedited HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

**(8) Pamphlet HPA:**

(a) There are two pamphlet HPAs, *Gold and Fish* and *Aquatic Plants and Fish*, that cover the most common types of small scale mineral prospecting and removing or controlling aquatic plants, respectively. A person must follow the provisions in the pamphlet. If a person cannot follow the provisions, or disagrees with any provision, the permittee must apply for a standard HPA before starting the hydraulic project.



(b) A person must review a pamphlet HPA before conducting the authorized hydraulic project.

(c) When a pamphlet HPA is used, the permittee must have the pamphlet HPA on the job site when conducting work and the pamphlet must be immediately available for inspection by the department upon request.

(d) All persons conducting the project must follow all provisions of the pamphlet HPA.

(e) The department may grant exceptions to a pamphlet HPA only if a person applies for a standard individual HPA for the project.

(f) Pamphlet HPAs do not exempt a person from obtaining other appropriate permits and following the rules and regulations of local, federal, and other Washington state agencies.

(9) **How to get an HPA:**

(a) How to get a pamphlet HPA: A person can download and save or print a pamphlet HPA from the department's website. A person may also request a pamphlet HPA from the department either verbally or in writing.

(b) How to get an emergency HPA: Upon an emergency declaration, and before starting emergency work, a person must obtain a verbal or written HPA from the department. A complete written application is not required. However, a person must provide adequate information describing the proposed action. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act), is not required for emergency HPAs. A person may request a verbal or written emergency HPA from the biologist who issues HPAs for the geographic area where the emergency is located Monday through Friday from 8:00 a.m. to 5:00 p.m. If the biologist cannot be contacted or it is after business hours, a person must contact the emergency hotline at 360-902-2537 to request an emergency HPA.

(c) How to get a standard, expedited, or chronic danger HPA:

(i) A person must submit a complete written application to the department to obtain an HPA unless the project qualifies for one of the following:

(A) A pamphlet HPA, subsection (3) of this section; or

(B) An emergency HPA, subsection (5) of this section.

(ii) When applying for an HPA, a person must submit one of the following application forms to the department:

(A) The electronic online application developed by the department;

(B) The current version of the JARPA;

(C) The current version of the JARPA including the most recent version of the application for streamlined processing of fish habitat enhancement projects when applying for streamlined processing under RCW 77.55.181. These may be submitted to the department as attachments to the online application form;

(D) The most recent version of the model HPA application or other department-approved alternative applications available from the department's public website; or

(E) The current version of the JARPA if applying for approval of a watershed restoration project under RCW 77.55.171. This may be submitted to the department as an attachment to the online application form.

(iii) A complete application package for an HPA must contain:

(A) A completed application form signed and dated by the applicant, landowner(s) or landowner representative(s) of any project site or off-site mitigation location, and the authorized agent, if any.

Completing and submitting the application forms through the department's online permitting system is the same as providing signature and date, if all documents required during the online application process are submitted to the department. The property owner, if different than the applicant, or easement holder must consent to the department staff entering the property where the project is located to inspect the project site or any work;

(B) Plans for the overall project;

(C) Complete plans and specifications for all aspects of the proposed construction or work waterward of the mean higher high water line in salt water, or waterward of the ordinary high water line in fresh water;

(D) A description of the measures that will be implemented for the protection of fish life, including any reports assessing impacts from the hydraulic project to fish life and their habitat, and plans to mitigate those impacts to ensure the project results in no net loss;

(E) For a standard or chronic danger HPA application, a copy of the written notice from the lead agency demonstrating compliance with any applicable requirements of the State Environmental Policy Act under chapter 43.21C RCW, unless otherwise provided for in chapter 77.55 RCW; or the project qualifies for a specific categorical exemption under chapter 197-11 WAC;

(F) Written approval by one of the entities specified in RCW 77.55.181 if the applicant is proposing a fish enhancement project;

(G) For an expedited HPA application, an explanation of why normal processing would result in significant hardship for the applicant or unacceptable environmental damage.

(H) For a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment, a copy of a permit issued under the federal Clean Water Act by Washington department of ecology that authorizes the use of that equipment at the location proposed, or written notice from Washington department of ecology declaring that a federal Clean Water Act permit is not required.

(I) When applying for a standard written HPA for mineral prospecting work within the wetted perimeter outside of the allowable work times authorized in WAC 220-660-300 and 220-660-305, a person must identify the upstream and downstream extent of each project location within a stream. The location of each site can be no greater than the length contained within a registered mining claim, if the project occurs on a claim, or one thousand three hundred linear feet of stream, if the project does not occur on a claim.

(iv) HPA application submission:

(A) A person must submit the complete application package by:

(I) Using the department's online permitting system;

(II) Sending the package via mail to:

Department of Fish and Wildlife  
P.O. Box 43234  
Olympia, WA 98504-3234;

(III) Sending the package via email to:  
HPAapplications@dfw.wa.gov;

(IV) Sending the package via fax to: 360-902-2946;

(V) Uploading the package to a file transfer protocol site acceptable to the department; or

(VI) Hand delivering the package to the department at 1111 Washington Street S.E., Olympia, WA 98504, Habitat Program, Fifth Floor.

The department will not accept applications submitted elsewhere or by other than the applicant or authorized agent.

(B) Dimensions of printed documents submitted with the application package may not be larger than eleven inches by seventeen inches. Pages of documents submitted may not be bound except by paper clips or other temporary fastening.

(C) A person must submit applications and supporting documents with a combined total of thirty or more pages as digital files rather than printed documents. All digital files must be in formats compatible with Microsoft Word, Microsoft Excel, or Microsoft Access programs, or in PDF, TIFF, JPEG, or GIF formats.

(D) Applications submitted to the habitat program during normal business hours (8:00 a.m. to 5:00 p.m. Pacific Standard Time) are deemed received on the date the habitat program receives the application. The department may declare applications received by the habitat program after normal business hours as received on the next business day.

**(10) Incomplete applications:**

(a) Within ten days of receipt of the application, the department must determine whether an application meets the requirements of this section. If the department determines the application does not meet the requirements, the department will provide written or emailed notification of an incomplete application to the applicant or authorized agent. This written or emailed notification must include a description of information needed to make the application complete. The department may return the incomplete application to the applicant or authorized agent or hold the application on file until it receives the missing information. The department will not begin to process the application until it receives all information needed to complete the application.

(b) The applicant or authorized agent must submit additional information in response to a written notification of incomplete application through the department's online permitting system or to the department's habitat program, Olympia headquarters office. The department will not accept additional information submitted elsewhere or by other than the applicant or authorized agent.

(c) The department may close any application that has been incomplete for more than twelve months. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application. After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

(d) The department may reject a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations are in an area in which Washington department of ecology is prohibited under RCW 90.48.615 from issuing a permit under the federal Clean Water Act.

**(11) Application review period:**

(a) Once the department determines an application is complete, the department will provide to tribes and local, state, and federal permitting or authorizing agencies a seven-calendar-day review and comment period. The department will not issue the HPA before the end of the review period to allow all interested tribes and agencies to provide comments to the department. The department may consider all written comments received when issuing or provisioning the HPA. The

review period is concurrent with the department's overall review period. Emergency, imminent danger, expedited, and modified HPAs are exempt from the review period requirement.

(b) Except for emergency, imminent danger, and expedited HPAs, the department will grant or deny approval within forty-five calendar days of the receipt of a complete written application. The department will grant approval of imminent danger and expedited HPAs within fifteen days of the receipt of a complete written application. The department will grant approval of emergency HPAs immediately upon request if an emergency declaration has been made.

(c) If the department declares an imminent danger, applicant hardship, or immediate threat regarding an application for expedited or emergency HPA, the department must place written documentation of that declaration and justification for it in the application record within three days of issuing the written HPA.

**(12) Suspending the review period:**

(a) An applicant or authorized agent may request a delay in processing a standard HPA. The applicant or authorized agent must submit a written request for the delay through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept delay requests submitted elsewhere or by a person other than the applicant or authorized agent.

(b) If the department suspends the review period, the department must immediately notify the applicant in writing of the reasons for the delay. The department may suspend the review period (with or without the applicant's concurrence) if:

(i) The site is physically inaccessible for inspection or not in a condition to be evaluated (i.e., snow cover, frozen);

(ii) The applicant or authorized agent remains unavailable or unable to arrange for a field evaluation of the proposed project within ten working days of the department's receipt of the application;

(iii) The applicant or authorized agent submits a written request for a delay;

(iv) The department is issuing an HPA for a stormwater discharge and is complying with the requirements of RCW 77.55.161 (3) (b); or

(v) The department is reviewing the application as part of a multi-agency permit streamlining effort, and all participating permitting and authorizing agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(c) The department may close any application if the application has been delayed for processing more than twelve months for any of the reasons identified in subsection (12) (a) or (b) of this section. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application. After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

**(13) Issuing or denying a hydraulic project approval:**

(a) Protection of fish life is the only grounds upon which the department may deny or provision an HPA, as provided in RCW 77.55.021. The department may not unreasonably withhold or condition approval of an HPA. The HPA provisions must reasonably relate to the project and must ensure that the project provides proper protection for fish life. The department may not impose provisions that attempt to optimize con-

ditions for fish life that are out of proportion to the impact of the proposed project.

(b) The department may not deny an emergency, imminent danger, chronic danger, or an expedited HPA, as provided in RCW 77.55.021. However, these projects must comply with the provisions in this chapter that are included in an HPA. The department will deny any other type of HPA or request to change an existing HPA when the project will not protect fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. If the department denies approval, the department must provide the applicant with a written statement of the specific reasons why and how the proposed project would adversely affect fish life, as provided in RCW 77.55.021.

(c) The department may place specific time limitations on project activities in an HPA to protect fish life.

(d) The department may require a person to notify the department before hydraulic project construction or other hydraulic project work starts, upon project completion, or at other times that the department deems necessary while the HPA is in effect. The department may also require a person to provide periodic written reports to assess HPA compliance.

(e) The HPA must contain provisions that allow for minor modifications to the work timing, plans, and specifications of the project without requiring the reissuance of the HPA, as long as the modifications do not adversely affect fish life or the habitat that supports fish life. The permittee should contact the habitat program's Olympia headquarters office through email or the department's online permit application system to request a minor modification.

(f) A person may propose or conduct a hydraulic project under an environmental excellence program agreement authorized under chapter 43.21K RCW. These projects must be applied for and permitted under the requirements of chapter 43.21K RCW.

**(14) Hydraulic project approval expiration time periods:**

(a) Except for emergency, imminent danger, expedited, and pamphlet HPAs, the department may grant standard HPAs that are valid for up to five years. The permittee must demonstrate substantial progress on construction of the portion of the project authorized in the HPA within two years of the date of issuance.

(b) Imminent danger and expedited HPAs are valid for up to sixty days, and emergency HPAs are valid for the expected duration of the emergency hydraulic project.

(c) Pamphlet HPAs remain in effect indefinitely until modified or rescinded by the department.

(d) The following types of agricultural hydraulic project HPAs remain in effect without the need for periodic renewal; however, a person must notify the department before starting work each year:

(i) Seasonal work that diverts water for irrigation or stock watering; and

(ii) Stream bank stabilization projects to protect farm and agricultural land if the applicant can show that the problem causing the erosion occurs annually or more frequently. Evidence of erosion may include history of permit application, approval, or photographs. Periodic floodwaters alone do not constitute a problem that requires an HPA.

**(15) Requesting a time extension, renewal, modification, or transfer of a hydraulic project approval:**

(a) The permittee may request a time extension, renewal, modification, or transfer of an active HPA. Before the HPA expires, the per-

mittee or authorized agent must submit a written request through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept requests for delay, renewal, modification, or transfer of an HPA submitted elsewhere or by a person other than the permittee or authorized agent. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the permit number or application identification number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA if requesting a time extension, renewal, or modification, the reason for the requested change, the date of the request, and the requestor's signature. Requests for transfer of an HPA to a new permittee or authorized agent must additionally include a signed, written statement that the new permittee or authorized agent agrees to the conditions of the HPA, that they agree to allow the department access to the project location to inspect the project site, mitigation site, or any work related to the project, and that they will not conduct any project activities until the department has issued approval.

(b) Requests for time extensions, renewals, or modifications of HPAs are deemed received on the date received by the department. The department may declare applications submitted to habitat program after normal business hours as received on the next business day.

(c) Within forty-five days of the requested change, the department must approve or deny the request for a time extension, renewal, modification, or transfer of an approved HPA.

(d) Unless the new permittee or authorized agent requests a time extension, renewal, or modification of an approved HPA, the department may change only the name and contact information of the permittee or authorized agent and must not alter any provisions of the HPA except the project or location start dates when granting a transfer.

(e) A permittee may request a modification or renewal of an emergency HPA until the emergency declaration expires or is rescinded. Requests for changes to emergency HPAs may be verbal, but must contain all of the information in (a) of this subsection.

(f) The department must not modify or renew an HPA beyond the applicable five-year or sixty-day periods. A person must submit a new complete application for a project needing further authorization beyond these time periods.

(g) The department will issue a letter documenting an approved minor modification(s) and a written HPA documenting an approved major modification(s) or transfer.

**(16) Modifications of a hydraulic project approval initiated by the department:**

(a) After consulting with the permittee, the department may modify an HPA because of changed conditions. The modification becomes effective immediately upon issuance of a new HPA.

(b) For hydraulic projects that divert water for agricultural irrigation or stock watering, or when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the department must show that changed conditions warrant the modification in order to protect fish life.

**(17) Revoking an HPA.**

(a) The department may revoke an HPA under the following conditions:

- (i) At the written request of the permittee or authorized agent;
- (ii) As the result of an informal or formal appeal decision;

- (iii) As the result of a court ruling finding that the department issued the HPA in error;
  - (iv) Following change of a determination of nonsignificance or mitigated determination of nonsignificance to a determination of significance by a lead agency under chapter 43.21C RCW that applies to the hydraulic project approved by the HPA;
  - (v) The applicant did not correctly identify compliance with the requirements of chapter 43.21C RCW in the HPA application and the department was unaware of the error until after the HPA was issued;
  - (vi) Changed physical or biological conditions at the site of the hydraulic project have occurred before project initiation such that fish life cannot be protected if the project proceeds under the requirements of the existing HPA;
  - (vii) The permittee has not demonstrated substantial progress on construction of the hydraulic project within two years of the date of issuance as required in RCW 77.55.021 (9)(a). Substantial progress means initiation of work at any of the project locations identified in the HPA;
  - (viii) Duplicate HPAs have been issued for the same hydraulic project.
- (b) The department must provide the permittee or authorized agent with written notification before revoking the HPA.
  - (c) The department must notify the permittee or authorized agent in writing immediately upon revoking the HPA.
- (18) Requesting a preapplication determination:**
- (a) A person may request information or a technical assistance site visit from the department prior to submitting an HPA application or at any other time. The department will provide the requested information either verbally or in writing.
  - (b) If a person is unsure about whether proposed construction or other work landward of (above) the ordinary high water line requires an HPA, they may request a preapplication determination from the department under RCW 77.55.400. The department must evaluate the proposed project and determine if it is a hydraulic project and, if so, whether an HPA from the department is required to ensure proper protection of fish life.
  - (c) The preapplication determination request must be submitted through the department's online permitting system and must contain:
    - (i) A description of the proposed project, which must include the location of the ordinary high water line;
    - (ii) A map showing the location of the project site, which must include the location of the ordinary high water line; and
    - (iii) Preliminary plans and specifications of the proposed project, if available, which include the location of the ordinary high water line.
  - (d) The department must provide tribes and local governments a seven calendar day review and comment period. The department must consider all applicable written comments that it receives before it issues a determination as described in this subsection.
  - (e) The department must issue a written determination, including its rationale for the decision, within twenty-one calendar days of receiving the request.
  - (f) Chapter 43.21C RCW (state environmental policy) does not apply to preapplication determinations issued under this subsection.
  - (g) The department's preapplication determination decision may be appealed as provided in WAC 220-660-460 (Informal appeal of adminis-

trative action) or WAC 220-660-470 (Formal appeal of administrative action).

(19) **Notice of intent to disapprove HPA applications:**

(a) The department may disapprove HPA applications submitted by a project proponent who has failed to comply with a stop work order or notice to comply issued under WAC 220-660-480, or who has failed to pay civil penalties issued under WAC 220-660-480. The term "project proponent" has the same definition as in RCW 77.55.410.

(b) The department may disapprove HPA applications submitted by such project proponents for up to one year after the date on which the department issues a notice of intent to disapprove HPA applications, or until such project proponent pays all outstanding civil penalties and complies with all notices to comply and stop work orders issued under WAC 220-660-480, whichever is longer (disapproval period).

(c) The department must provide written notice of its intent to disapprove HPA applications to the project proponent and to any authorized agent or landowner identified in the application, in person or via United States mail, to the mailing address(es) listed on the project proponent's HPA application.

(d) The disapproval period begins on the date the department's notice of intent to disapprove HPA applications becomes final. The notice of intent to disapprove HPA applications becomes final thirty calendar days after the department issues it, or upon exhaustion of all applicable administrative and/or judicial remedies.

(e) Any project proponent issued a notice of intent to disapprove HPA applications may, within thirty days of the date of the notice, initiate a formal appeal of the notice as provided in WAC 220-660-470 (Formal appeal of administrative actions).

(f) The department will provide notice and waiver of fines, civil penalties, and administrative sanctions consistent with RCW 34.05.110 and WAC 220-660-480(12).

AMENDATORY SECTION (Amending WSR 19-12-126, filed 6/5/19, effective 11/1/19)

**WAC 220-660-300 Mineral prospecting.** (1) **Description:** Mineral prospecting projects excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment. When prospectors locate valuable minerals through prospecting, they may attempt to recover larger quantities of the minerals using a variety of equipment, including suction dredges, high bankers, and heavy equipment. The rules in this section apply to ((using)) the use of pans; nonmotorized sluice boxes; nonmotorized concentrators; minirocker boxes; and hand-held mineral prospecting tools ((and a variety of small mineral prospecting equipment)). This section does not apply to metals mining and milling operations as defined in chapter 78.56 RCW. Motorized mineral prospecting methods including, but not limited to, suction dredging ((is)), are not authorized in this section. See WAC 220-660-305 for ((suction dredging)) rules for motorized and gravity siphon methods.

(2) **Fish life concerns:** Mineral prospecting and mining activities can harm fish life and habitat that supports fish life.

(a) Direct impacts from mineral prospecting and mining activities can include:



(i) Mortality from the physical effects of disturbing eggs or fry incubating within the bed; and

(ii) Lower environmental productivity resulting from habitat modifications such as altered stream beds or lowered water quality.

(b) Indirect impacts can include changes in food resources and human disturbances.

(c) The department minimizes impacts of mineral prospecting by restricting the type of mining equipment allowed, limiting excavation zones within streams, and setting allowable timing windows.

**(3) General requirements:**

(a) A copy of the current *Gold and Fish* pamphlet is available from the department, and it contains the rules that a person must follow when using the pamphlet as the HPA for the mineral prospecting project.

(b) Alternatively, a person may request exceptions to the *Gold and Fish* pamphlet by applying for a standard written HPA as described in WAC 220-660-050. The department must deny an HPA when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. The department may apply saltwater provisions to written HPAs for tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

(c) Nothing in chapter 220-660 WAC relieves a person of the duty to obtain landowner permission and any other required permits before conducting any mineral prospecting activity.

**(4) Mineral prospecting in freshwater without timing restrictions:**

(a) A person may mineral prospect year-round in all fresh waters of the state, except lakes. A person must follow the rules listed below, but does not need to have the *Gold and Fish* pamphlet on the job site when working in fresh waters of the state.

(b) When mineral prospecting without timing restrictions, a person may use only hand-held mineral prospecting tools and the following nonmotorized mineral prospecting equipment:

(i) Pans (~~(+~~

~~ii) Spiral wheels)); and~~

~~((iii))~~ (ii) Sluices, nonmotorized concentrators, mini rocker boxes, and nonmotorized mini high-bankers, with riffle areas totaling three square feet or less, including ganged equipment.

(iii) No other types of mineral prospecting tools or equipment are authorized under this subsection.

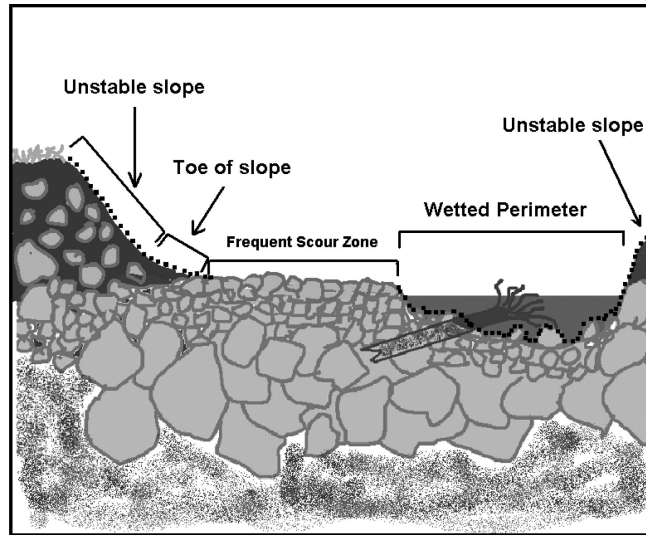
(c) A person may not use vehicle-mounted winches. A person may use one nonmotorized hand-operated winch to move boulders or large woody material that is not embedded or located within the wetted perimeter. A person may use additional cables, chains, or ropes to stabilize boulders, or large woody material that is not embedded.

(d) A person may work within the wetted perimeter only from one-half hour before official sunrise to one-half hour after official sunset.

(e) A person may not disturb fish life or redds within the bed. If a person observes or encounters fish life or redds within the bed, or actively spawning fish when collecting or processing aggregate, a person must relocate their operation. A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

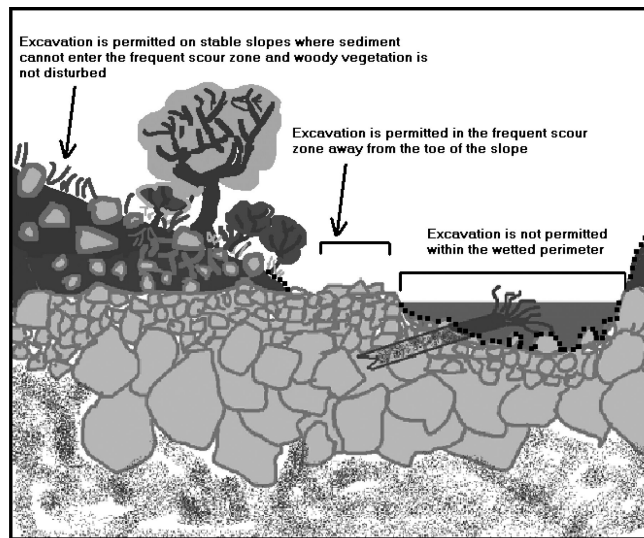
(f) Aggregate excavation, collection, and removal:

- (i) A person may excavate only by hand or with hand-held mineral prospecting tools.
- (ii) A person may not excavate, collect, or remove aggregate from within the wetted perimeter. See Figures 1 and 2.



**Figure 1: Cross section of a typical body of water, showing areas where excavation is not permitted under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

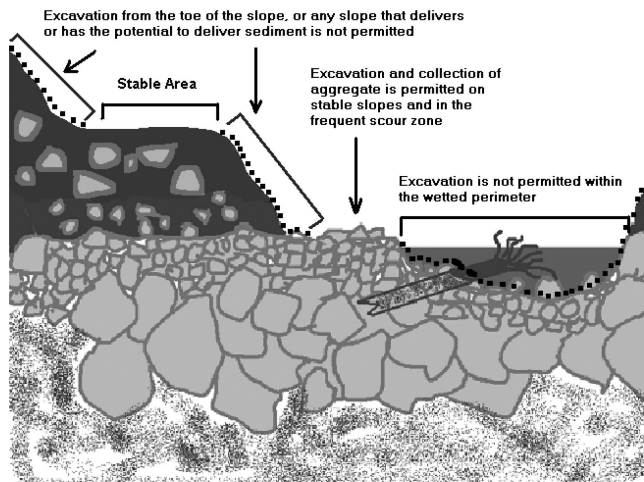
- (iii) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.
- (iv) When collecting or excavating aggregate, a person may not stand within, or allow aggregate to enter, the wetted perimeter.
- (v) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site. If a person moves boulders, a person must return them, as well as possible, to their original location.
- (vi) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material. See Figure 2.



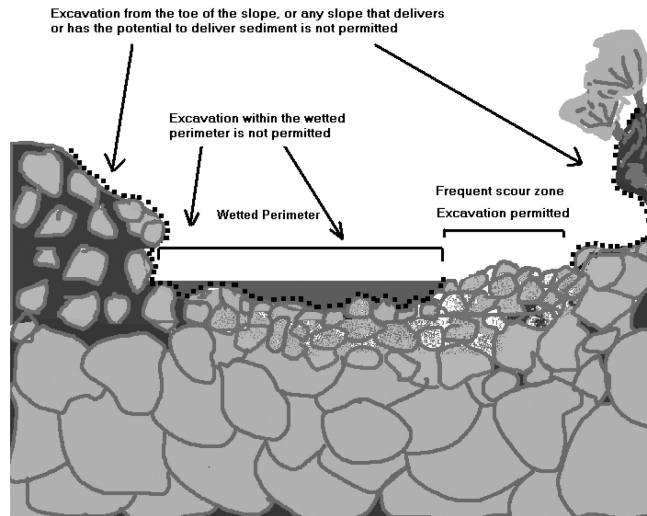
**Figure 2: Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.**

(vii) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

(viii) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver sediment to the wetted perimeter or frequent scour zone. See Figures 3 and 4.



**Figure 3: Limits on excavating, collecting, and removing aggregate on stream banks.**



**Figure 4: Excavating, collecting and removing aggregate within the wetted perimeter is not permitted.**

(g) Processing aggregate:

(i) A person may stand within the wetted perimeter when processing aggregate with pans (~~(, spiral wheels,)~~) and sluices.

(ii) A person may not stand on or process directly on redds, or disturb incubating fish life. A person may not allow tailings or visible sediment plumes (visibly muddy water) to enter redds or areas where fish life are located within the bed.

(iii) A person may not level or disturb tailing piles that remain within the wetted perimeter after processing aggregate.

(iv) If a person collected or excavated aggregate outside of the frequent scour zone, a person must classify it at the collection or excavation site before processing.

(v) When using a sluice, a person may process only classified aggregate within the wetted perimeter.

(vi) The maximum width of a sluice, measured at its widest point, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(vii) A person may process with a sluice only in areas within the wetted perimeter that are composed mainly of boulders and bedrock. A person must separate sluice locations by at least fifty feet. A person may not place structures within the wetted perimeter to check or divert the water flow.

(viii) A person may operate nonmotorized mini high-bankers or other concentrators only outside the wetted perimeter. Water may be supplied to the mini high-banker or concentrator only from natural stream flow or from hand-held buckets or containers and may not be supplied through a gravity siphon. A person may not allow visible sediment or muddy water to enter the wetted perimeter. A second excavation site may be used as a settling pond.

(ix) (~~As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and~~

~~the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.~~

~~(x))~~ A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

~~((xi))~~ (x) A person may not disturb existing fish habitat improvement structures or stream channel improvements.

~~((xii))~~ All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

~~(xiii))~~ (xi) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately cease operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

(5) **Mineral prospecting in fresh waters with timing restrictions:**

(a) A person may mineral prospect in fresh waters of the state only during the times ~~((and with the mineral prospecting equipment limitations))~~ identified in subsection (7) of this section. A person must have the *Gold and Fish* pamphlet on the job site and comply with the provisions listed below.

(b) When mineral prospecting with timing restrictions, a person may use only nonmotorized hand-held mineral prospecting tools and the following mineral prospecting equipment:

(i) Pans; and

(ii) ~~((Spiral wheels;~~

~~(iii))~~ Sluices, nonmotorized concentrators, rocker boxes, and nonmotorized high-bankers, with riffle areas totaling ten square feet or less, including ganged equipment ~~((;~~

~~(iv)~~ Power sluice/suction dredge combinations, when configured and used as high-bankers or power sluices, that have riffle areas totaling ten square feet or less, including ganged equipment; and pump intake hoses with inside diameters of four inches or less; and

~~(v)~~ High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less)). Water may be supplied to the high-banker or concentrator only from natural stream flow or from hand-held buckets or containers and may not be supplied through a gravity siphon;

(iii) No other types of mineral prospecting tools or equipment are authorized under this subsection.

(c) The widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

~~(d)~~ ~~((The suction intake nozzle and hose of power sluice/suction dredge combinations may not be attached to the equipment or stored on the job site.~~

~~(e))~~ A person may not use vehicle-mounted winches. A person may use ~~((one motorized winch and))~~ one nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

~~((f))~~ (e) Equipment separation:

(i) A person may use hand-held mineral prospecting tools; pans ~~((spiral wheels))~~; or sluices, mini rocker boxes, or nonmotorized mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.

(ii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), ~~((power sluice/suction dredge combination,))~~ or nonmotorized high-banker, ~~((or power sluice within the wetted perimeter,))~~ a person's equipment must be at least two hundred feet from all others also operating ~~((this type of equipment or a suction dredge))~~ mineral prospecting equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is ~~((actually operating))~~ being used within that two hundred foot radius.

(iii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), ~~((power sluice/suction dredge combination, high-banker, or power sluice))~~ or nonmotorized high-banker outside of the wetted perimeter that discharges tailings or wastewater to the wetted perimeter, a person's equipment must be at least two hundred feet from all others also operating ~~((this type of equipment or a suction dredge))~~ mineral prospecting equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is ~~((actually operating))~~ being used within that two hundred-foot radius.

~~((g))~~ As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

~~(h)~~ All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

~~(i))~~ (f) A person may work within the wetted perimeter or frequent scour zone only from one-half hour before official sunrise to one-half hour after official sunset. If a person's mineral prospecting equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is

free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

~~((j))~~ (g) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

~~((k))~~ (h) A person must not disturb existing fish habitat improvement structures or stream channel improvements.

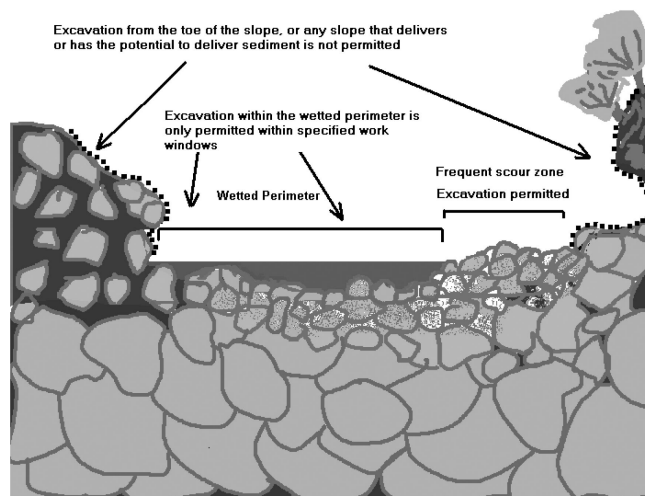
~~((l))~~ (i) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material.

~~((m))~~ (j) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

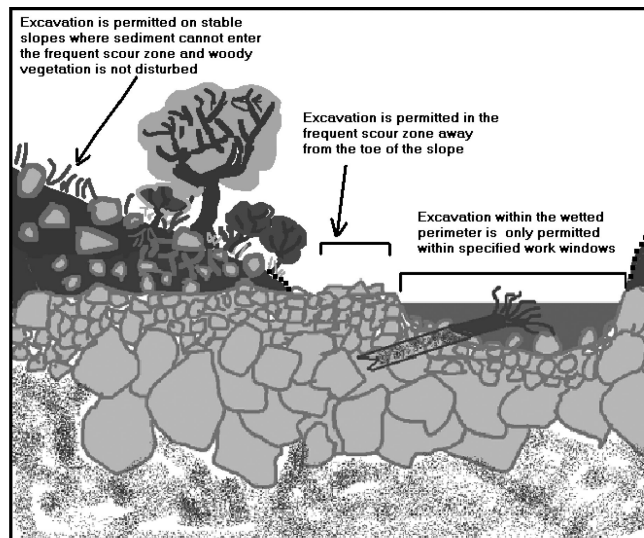
~~((n))~~ (k) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.

~~((o))~~ (l) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site.

~~((p))~~ (m) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 5 and 6.



**Figure 5: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites under rules for mineral prospecting with timing restrictions. Dashed line indicates areas where excavation is not permitted.**



**Figure 6: Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting with timing restrictions. Dashed lines indicates areas where excavation is not permitted.**

((+q)) (n) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

((+r)) (o) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

((+s)) (p) A person may process aggregate collected from the frequent scour zone:

(i) At any location if a person uses pans; (~~spiral wheels;~~) mini rocker boxes; nonmotorized mini high-bankers; or sluices or other nonmotorized concentrators with riffle areas three square feet or less, including ganged equipment.

(ii) Only in the frequent scour zone or upland areas landward of the frequent scour zone if a person uses (~~power sluice/suction dredge combinations;~~) nonmotorized high-bankers(~~, or power sluices~~) with riffle areas totaling ten square feet or less, including ganged equipment; or sluices or rocker boxes that have riffle areas larger than three, but less than ten square feet, including ganged equipment. A person may not discharge tailings to the wetted perimeter when using this equipment. However, a person may discharge wastewater to the wetted perimeter if its entry point into the wetted perimeter is at least two hundred feet from any other wastewater discharge entry point.

((+t)) (q) A person may process aggregate collected from upland areas landward of the frequent scour zone:

(i) At any location if a person uses pans; (~~spiral wheels;~~) or sluices, nonmotorized concentrators, mini rocker boxes, and nonmotorized mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment. A person must classify the aggregate



at the excavation site before processing with this equipment within the wetted perimeter or frequent scour zone.

(ii) Only at an upland location landward of the frequent scour zone if a person uses (~~(power sluice/suction dredge combinations)~~) nonmotorized high-bankers (~~(power sluices)~~) or rocker boxes. A person may not allow tailings or wastewater to enter the wetted perimeter or frequent scour zone.

(iii) Within the wetted perimeter or frequent scour zone if a person uses a sluice with a riffle area greater than three square feet. A person must classify the aggregate at the excavation site prior to processing with a sluice with a riffle area exceeding three square feet.

~~((u) A person may use pressurized water only for crevicing or for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.~~

~~(v) A person may conduct crevicing in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing may not have an inside diameter larger than three quarters of an inch. If a person crevices landward of the frequent scour zone, no sediment or wastewater may be discharged into the wetted perimeter or the frequent scour zone.~~

~~(w))~~ (r) A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

~~((x))~~ (s) A person may not disturb redds. If a person observes or encounters redds or actively spawning fish when collecting or processing aggregate, a person must relocate the operation.

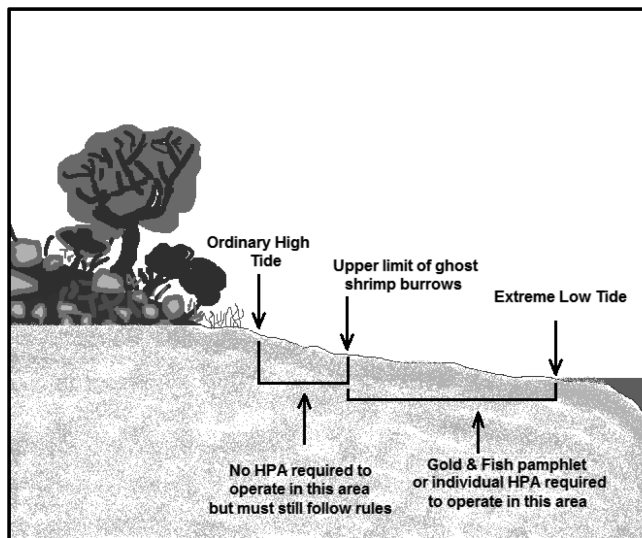
~~((y))~~ (t) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(6) Mineral prospecting on ocean beaches:**

(a) A person may mineral prospect year-round on ocean beaches of the state. A person must follow the rules listed below, and must have the *Gold and Fish* pamphlet on the job site when working on ocean beaches of the state, except as noted in this subsection.

(b) A person may mineral prospect only between the line of ordinary high tide and the line of extreme low tide on beaches within the Seashore Conservation Area set under RCW 79A.05.605 and managed by Washington state parks and recreation commission.

(c) No written or pamphlet HPA is required to mineral prospect south of the Copalis River, if a person operates landward of the upper limit of ghost shrimp burrowing in the beach; waterward of the ordinary high tide line; and a person does not use fresh water from fish-bearing streams during operations. See Figure 7.



**Figure 7. Beach area where no written or pamphlet HPA is required.**

(d) A person may use only nonmotorized hand-held mineral prospecting tools and the following nonmotorized mineral prospecting equipment:

- (i) Pans; and
- (ii) ~~((Spiral wheels;~~
- ~~(iii))~~ Sluices, nonmotorized concentrators, rocker boxes, and nonmotorized high-bankers with riffle areas totaling ten square feet or less, including ganged equipment(~~(;~~
- ~~(iv) Power sluice/suction dredge combinations, when configured and used as high-bankers or power sluices, that have riffle areas totaling ten square feet or less, including ganged equipment; and~~
- ~~(v) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.~~

~~(e) The suction dredge intake nozzle and hose of power sluice/suction dredge combinations may not be attached to the equipment or stored on the job site).~~

~~((f))~~ (e) When operated in fish-bearing freshwater streams, the widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(f) Water may be supplied to a high-banker or concentrator only from natural stream flow or from hand-held buckets or containers and may not be supplied through a gravity siphon.

(g) A person may not use vehicle-mounted winches. A person may use ~~((one motorized winch and))~~ one nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

~~(h) ((Under RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For~~

example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

~~(i)~~ All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water and beach, and contact the Washington military department emergency management division. A person may not return the equipment to the water or beach until the problem is corrected. A person must store fuel and lubricants away from the water inside a vehicle or landward of the beach, and in the shade when possible.

~~(j)~~) A person may work only from one-half hour before official sunrise to one-half hour after official sunset. If a person uses mineral prospecting equipment in a fish-bearing freshwater stream and the equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

~~((k))~~ (i) A person may not undermine, cut, disturb, or move embedded large woody material or woody debris jams.

~~((l))~~ (j) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

~~((m))~~ (k) A person must backfill all trenches, depressions, or holes created in the beach during project activities before moving to another excavation site (except during use as a settling pond) or leaving an excavation site.

~~((n))~~ (l) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter of a fish-bearing freshwater stream, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

~~((o))~~ (m) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

~~((p)~~ A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

~~(q)~~) (n) A person may not disturb live razor clams or other shellfish within the bed. If a person observes or encounters live razor clams or other shellfish during excavation, the person must relocate the operation.

~~((r))~~ (o) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department, and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(7) Authorized work times by specific state waters for mineral prospecting and placer mining projects:**

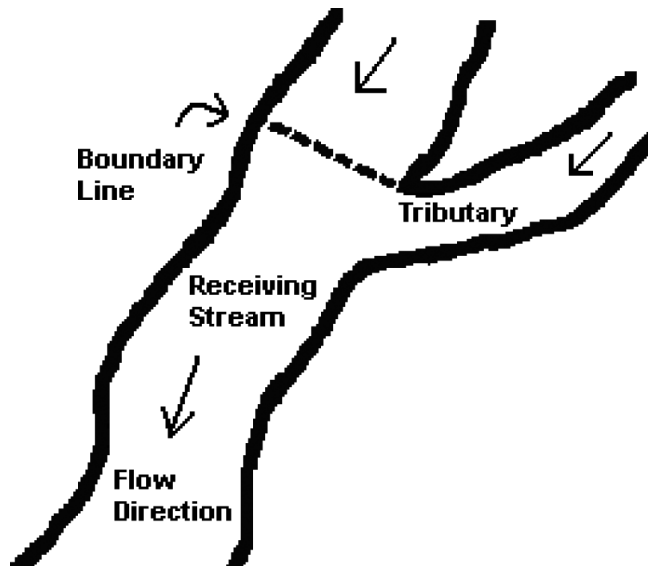
(a) A person may conduct mineral prospecting and placer mining under subsections (5) and (6) of this section only in the state waters and during the times specified in the following table of authorized work times.

(b) The general work time for a county applies to all state waters within that county unless otherwise indicated in the table.

(c) The work time for state waters identified in the table of authorized work times applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the table for the county in which mineral prospecting or placer mining is to be conducted to determine the work time for that water body.

(d) Where a tributary is identified as a boundary, that boundary is the line perpendicular to the receiving stream that is projected from the most upstream point of the tributary mouth to the opposite bank of the receiving stream. See Figure 8.

(e) Mineral prospecting and placer mining within water bodies identified in the table of authorized work times as "submit application" are not authorized under the *Gold and Fish* pamphlet. A person must obtain a standard written HPA to work in these water bodies.



**Figure 8: Where the boundary is located if a tributary listed as a boundary.**

**Table 1  
Authorized Work Times by Specific  
State Waters for Mineral Prospecting  
and Placer Mining Projects**

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates
<b>Adams County</b>	July 1 - October 31
Crab Creek (41.0002)	July 16 - February 28
Esquatzel Creek (36.MISC)	June 1 - February 28
Palouse River (34.0003)	July 16 - February 28
<b>Asotin County</b>	July 16 - September 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Snake River (35.0002)	See Below
Alpowa Creek (35.1440)	July 16 - December 15
Asotin Creek (35.1716)	July 16 - August 15
Couse Creek (35.2147)	July 16 - December 15
Grande Ronde River (35.2192)	July 16 - September 15
Ten Mile Creek (35.2100)	July 16 - December 15
<b>Benton County</b>	June 1 - September 30
Columbia River	See Below
Glade Creek (31.0851)	August 1 - September 30
Yakima River (37.0002)	June 1 - September 15
Amon Wasteway (37.0009)	June 1 - September 30
Corral Creek (37.0002)	June 1 - September 30
Spring Creek (37.0205)	June 1 - September 30
<b>Chelan County</b>	July 16 - August 15
Columbia River	See Below
Antoine Creek (49.0294) - Mouth to falls at river mile 1.0	July 1 - February 28
Antoine Creek (49.0294) - Upstream of falls at river mile 1.0	July 1 - March 31
Chelan River (47.0052) - Mouth to Chelan Dam	July 16 - September 30
Colockum Creek (40.0760)	July 1 - October 31
Entiat River (46.0042) - Mouth to Entiat Falls	July 16 - July 31
Entiat River (46.0042) - Upstream of Entiat Falls	July 16 - March 31
Crum Canyon (46.0107)	July 16 - March 31
Mad River (46.0125)	July 16 - July 31
Indian Creek (46.0128)	July 16 - February 28
Lake Chelan (47.0052)	Submit Application
Railroad Creek (47.0410)	July 16 - September 30
Stehekin River (47.0508)	Submit Application
Twenty-Five Mile Creek (47.0195)	July 16 - September 30
Other Lake Chelan tributaries outside of North Cascades National Park	July 1 - August 15
Other Lake Chelan tributaries within North Cascades National Park	Submit Application
Number 1 Canyon (45.0011)	July 1 - February 28
Number 2 Canyon (45.0012)	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Squilchuck Creek (40.0836) - Mouth to South Wenatchee Avenue	July 1 - September 30
Squilchuck Creek (40.0836) - Upstream of South Wenatchee Avenue	July 1 - February 28
Stemilt Creek (40.0808) - Mouth to falls	July 1 - September 30
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28
Wenatchee River (45.0030) - Mouth to Hwy 2 Bridge in Leavenworth	July 15 - September 30
Wenatchee River (45.0030) - Hwy 2 Bridge in Leavenworth to Lake Wenatchee	July 15 - August 15
Beaver Creek (45.0751)	July 1 - September 30
Chiwaukum Creek (45.0700)	July 1 - July 31
Chiwawa River (45.0759) - Mouth to Phelps Creek	July 1 - July 31
Chiwawa River (45.0759) - Upstream of Phelps Creek	July 1 - July 31
Deep Creek (45.0764)	July 1 - February 28
Phelps Creek (45.0875)	July 16 - August 15
Icicle Creek (45.0474) - Mouth to Johnny Creek	July 1 - July 31
Icicle Creek (45.0474) - Upstream of Johnny Creek	July 1 - July 31
Fourth of July Creek (45.0525)	July 1 - February 28
Lake Wenatchee (45.0030)	Submit Application
Little Wenatchee (45.0985) - Mouth to Wilderness Boundary	July 1 - July 31
Little Wenatchee (45.0985) - Upstream of Wilderness Boundary	Submit Application
White River (45.1116) - Mouth to White River Falls	July 1 - July 31
White River (45.1116) - Upstream of White River Falls	July 1 - February 28
Nason Creek (45.0888)	July 1 - July 31
Peshastin Creek (45.0232) - Mouth to Etienne Creek	July 16 - August 15
Peshastin Creek (45.0232) - Upstream of Etienne Creek	August 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Ingalls Creek (45.0273) - Mouth to Cascade Creek	Submit Application
Ingalls Creek (45.0273) - Upstream of Cascade Creek	July 16 - February 28
Etienne Creek (45.0323) - Mouth to falls at stream mile 2.9	Submit Application
Etienne Creek (45.0323) - Upstream of falls at stream mile 2.9	July 16 - February 28
Ruby Creek (45.0318)	July 16 - February 28
Tronson Creek (45.0346)	August 1 - February 28
Scotty Creek (45.0376)	August 1 - February 28
Shaser Creek (45.0365)	August 1 - February 28
<b>Clallam County</b>	July 16 - September 15
Clallam River (19.0129)	August 1 - August 15
Dungeness River (18.0018)	Submit Application
Independent Creek (18.MISC)	August 1 - August 31
Elwha River (18.0272)	August 1 - August 15
Hoko River (19.0148)	August 1 - September 15
Jimmycomelately Creek (17.0285)	August 1 - August 31
Lake Ozette (20.0046)	Submit Application
Little Quilcene River (17.0076)	July 16 - August 31
Lake Ozette tributaries	July 16 - September 15
Lyre River (19.0031)	August 1 - September 15
McDonald Creek (18.0160)	August 1 - September 15
Morse Creek (18.0185)	August 1 - August 15
Ozette River (20.0046)	July 16 - September 15
Pysht River (19.0113)	August 1 - September 15
Quillayute River (20.0096, 20.0162, 20.0175)	August 1 - August 15
Bogachiel River (20.0162)	Submit Application
Calawah River (20.0175)	August 1 - August 15
Salmon Creek (17.0245)	July 16 - August 31
Sekiu River (19.0203)	August 1 - September 15
Snow Creek (17.0219)	July 16 - August 31
Sol Duc River (20.0096)	Submit Application
Lake Pleasant (20.0313)	Submit Application
Lake Pleasant tributaries	July 16 - September 15
Sooes River (20.0015)	July 16 - September 15
<b>Clark County</b>	July 16 - September 30
Columbia River	See Below

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Lacamas Creek (28.0160) - Mouth to dam	August 1 - August 31
Lacamas Creek (28.0160) - Upstream of dam	August 1 - September 30
Lewis River (27.0168)	August 1 - August 15
East Fork Lewis River (27.0173) - Mouth to Lucia Falls	August 1 - August 15
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28
Lake River (28.0020)	January 1 - December 31
Burnt Bridge Creek (28.0143)	August 1 - August 31
Salmon Creek (28.0059)	August 1 - August 31
Whipple Creek (28.0038)	August 1 - September 30
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15
Cedar Creek (27.0339)	August 1 - September 15
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15
Canyon Creek (27.0442)	July 16 - February 28
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - August 15
Washougal River (28.0159) - Mouth to headwaters	August 1 - August 31
<b>Columbia County</b>	July 16 - September 30
Touchet River (32.0097)	August 1 - August 15
Grande Ronde River tributaries (35.2192)	July 16 - August 15
North Fork Touchet/Wolf Fork (32.0761)	Submit Application
South Fork Touchet (32.0708)	Submit Application
Tucannon River (35.0009)	July 16 - August 15
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15
<b>Cowlitz County</b>	July 16 - September 30
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Mouth to Fisk Falls	August 1 - August 31



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Upstream of Fisk Falls	August 1 - August 31
Columbia River	See Below
Abernathy Creek (25.0297)	July 16 - September 15
Burke Creek (27.0148)	August 1 - August 31
Burriss Creek (27.0151)	August 1 - August 31
Bybee Creek (27.0142)	August 1 - August 31
Canyon Creek (27.0147)	August 1 - August 31
Coal Creek (25.0340)	July 16 - September 15
Clark Creek (25.0371)	August 1 - August 31
Cowlitz River (26.0002) - Mouth to barrier dam at river mile 49.5	July 16 - August 15
Coweeman River (26.0003) - Mouth to Baird Creek	August 1 - August 31
Coweeman River (26.0003) - Upstream of Baird Creek	August 1 - August 31
Cowlitz River (26.0002) - Tributaries below barrier dam to mouth	July 16 - September 30
Owl Creek (26.1441)	July 16 - September 15
Toutle River (26.0227)	July 16 - August 15
North Fork Toutle River (26.0314) - Mouth to Debris Dam	July 16 - August 15
North Fork Toutle River (26.0314) - Upstream of Debris Dam	July 16 - August 15
Green River (26.0323) - Mouth to Shultz Creek	July 16 - September 30
Green River (26.0323) - Upstream of Shultz Creek	July 16 - September 30
South Fork Toutle (26.0248) - Mouth to Bear Creek	July 16 - September 15
South Fork Toutle (26.0248) - Upstream of Bear Creek	July 16 - September 15
Tributaries to Silver Lake	July 16 - September 30
Germany Creek (25.0313)	July 16 - September 15
Kalama River (27.0002) - Mouth to Kalama Falls	August 1 - August 15
Kalama River (27.0002) - Upstream of Kalama Falls	August 1 - August 15
Lewis River (27.0168) - Mouth to East Fork Lewis River	August 1 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15
Mill Creek (25.0284)	July 16 - September 15
Schoolhouse Creek (27.0139)	August 1 - August 31
<b>Douglas County</b>	July 1 - September 30
Columbia River	See Below
Douglas Creek Canyon (44.0146)	May 16 - January 31
Foster Creek (50.0065)	August 1 - April 15
McCarteney Creek (44.0002)	July 1 - February 28
Pine/Corbaley Canyon Creek (44.0779)	September 16 - April 15
Rock Island Creek (44.0630)	July 1 - September 30
<b>Ferry County</b>	July 1 - August 31
Columbia River	See Below
Kettle River (60.0002)	June 16 - August 31
Boulder Creek (60.0130) - Mouth to Hodgson Road Bridge	Submit Application
Boulder Creek (60.0130) - Upstream of Hodgson Road Bridge	June 16 - February 28
Deadman Creek (60.0008) - Mouth to SR395 Crossing	Submit Application
Deadman Creek (60.0008) - Upstream of SR395	June 16 - February 28
Goosmus Creek (60.0254)	June 16 - February 28
Toroda Creek (60.0410)	July 1 - September 30
San Poil River (52.0004)	June 16 - September 30
Granite Creek (52.0099) - Mouth to Powerhouse Dam	June 16 - September 30
Granite Creek (52.0099) - Upstream of Powerhouse Dam	June 16 - February 28
West Fork San Poil River (52.0192) - Mouth to Deep Creek	June 16 - September 30
West Fork San Poil River (52.0192) - Upstream of Deep Creek	June 16 - September 30
Gold Creek (52.0197)	June 16 - February 28
<b>Franklin County</b>	June 1 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Columbia River	See Below
Snake River	See Below
Palouse River (34.0003)	July 16 - February 28
North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River	June 16 - October 31
<b>Garfield County</b>	July 16 - September 30
Snake River (35.0003)	See Below
Alpowa Creek (35.1440)	July 16 - December 15
Asotin Creek (35.1716)	July 16 - August 15
Deadman Creek (35.0688)	July 16 - December 15
Grande Ronde River tributaries (35.2192)	July 16 - August 15
Meadow Creek (35.0689)	July 16 - December 15
Tucannon River (35.0009) - Mouth to Panjab Creek	July 16 - August 15
Tucannon River (35.0009) - Upstream of Panjab Creek	July 16 - August 15
Pataha Creek (35.0123) - Mouth to Pataha Creek	January 1 - December 31
Pataha Creek (35.0123) - Upstream of Pataha Creek	July 16 - December 31
<b>Grant County</b>	July 1 - October 31
Columbia River	See Below
Crab Creek (41.0002)	July 16 - September 15
Grays Harbor County	July 16 - October 15
Chehalis River (22.0190/23.0190) - Mouth to Porter Creek	August 1 - August 31
Chehalis River (22.0190/23.0190) - Porter Creek to Fisk Falls	August 1 - August 15
Chehalis River (22.0190/23.0190) - Upstream of Fisk Falls	August 1 - August 15
Cedar Creek (23.0570)	August 1 - September 30
Cloquallum Creek (22.0501)	August 1 - September 30
Porter Creek (23.0543)	August 1 - September 30
Satsop River (22.0360)	August 1 - August 31
Wishkah River (22.0191)	August 1 - October 15
Wynoochee River (22.0260)	August 1 - September 30
Copalis River (21.0767)	August 1 - October 15
Elk River (22.1333)	July 1 - October 31
Hoquiam River (22.0137)	August 1 - October 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Humptulips River (22.0004) - Mouth to Forks	August 1 - September 30
Humptulips River (22.0004) - Upstream of Forks	August 1 - September 30
Johns River (22.1270)	August 1 - September 30
Moclips River (21.0731)	August 1 - October 15
North River (24.0034)	August 1 - September 30
Queets River (21.0001)	August 1 - August 15
Quinalt River (21.0398)	August 1 - August 15
Raft River (21.0337)	August 1 - October 15
<b>Island County</b>	June 16 - October 15
Cavalero Creek (06.0065)	June 16 - December 15
Chapman Creek (06.0070)	June 16 - December 15
Crescent Creek (06.0002)	June 16 - December 15
Cultus Creek (06.0026)	June 16 - March 15
Deer Creek (06.0024)	June 16 - March 15
Dugualla Creek (06.0001)	June 16 - March 15
Glendale Creek (06.0025)	June 16 - December 15
Kristoferson Creek (06.0062-06.0063)	May 1 - December 15
Maxwelton Creek (06.0029)	June 16 - December 15
North Bluff Creek (06.0006)	June 16 - March 15
Old Clinton Creek (06.0023)	June 16 - March 15
<b>Jefferson County</b>	July 16 - October 31
Big Quilcene River (17.0012) - Mouth to falls	July 16 - August 31
Big Quilcene River (17.0012) - Falls to Forks	August 1 - February 28
Big Quilcene River (17.0012) - Upstream of Forks	August 1 - February 28
Bogachiel River (20.0162)	Submit Application
Chimacum Creek (17.0203)	July 16 - September 15
Donovan Creek (17.0115)	July 1 - October 15
Dosewallips River (16.0442)	July 16 - August 15
Duckabush River (16.0351)	July 16 - August 15
Dungeness River (18.0018)	August 1 - August 15
Elwha River (18.0272)	August 1 - August 15
Goodman Creek (20.0406)	August 1 - September 15
Hoh River (20.0422)	August 1 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Little Quilcene River (17.0076)	July 16 - August 31
Queets River (21.0001)	August 1 - August 15
Matheny Creek (21.0165)	August 1 - August 15
Sams River (21.0205)	August 1 - August 15
Quinault River (21.0398)	August 1 - August 15
Salmon Creek (17.0245)	July 16 - August 31
Skokomish River (16.0001)	August 1 - August 31
Snow Creek (17.0219)	July 16 - August 31
Tarboo Creek (17.0129)	August 1 - September 30
Thorndyke Creek (17.0170)	August 1 - October 15
<b>King County</b>	July 16 - September 30
Cedar River (08.0299) - Mouth to Forks	August 1 - August 31
Cedar River (08.0299) - Upstream of Forks	August 1 - August 31
Issaquah Creek (08.0178)	August 1 - August 31
Sammamish River (08.0057)	August 1 - August 31
Steele Creek (08.0379)	July 16 - February 28
Green River (Duwamish River) (09.0001) - Mouth to Sawmill Creek	August 1 - August 31
Green River (Duwamish River) (09.0001) - Upstream of Sawmill Creek	August 1 - August 31
Lake Washington tributaries (08.LKWA)	August 1 - August 31
Snoqualmie River (07.0219) - Mouth to Snoqualmie Falls	August 1 - August 15
Snoqualmie River (07.0219) - Snoqualmie Falls to mouth of South Fork	July 16 - February 28
Patterson Creek (07.0376)	July 16 - September 30
Middle Fork Snoqualmie River (07.0219) - Mouth to Taylor Creek	July 16 - February 28
Middle Fork Snoqualmie River (07.0219) - Upstream of Taylor Creek	July 16 - February 28
Goat Creek (07.0754)	July 16 - February 28
North Fork Snoqualmie River (07.0527) - Mouth to Lennox Creek	July 16 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
North Fork Snoqualmie River (07.0527) - Upstream of Lennox Creek	July 16 - February 28
Deep Creek (07.0562)	July 16 - February 28
Illinois Creek (07.0624)	July 16 - February 28
Lennox Creek (07.0596)	July 16 - February 28
Bear Creek (07.0606)	July 16 - February 28
Raging River (07.0384)	August 1 - September 15
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15
South Fork Skykomish River (07.0012) - Upstream of Sunset Falls	August 1 - August 15
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28
Index Creek (07.1264) - Mouth to Mud Lake Creek	August 1 - August 31
Index Creek (07.1264) - Upstream of Mud Lake Creek including Salmon Creek	July 16 - February 28
Miller River (07.1329) - Mouth to Forks	August 1 - August 15
Miller River (07.1329) - Upstream of Forks	August 1 - August 15
Coney Creek (07.1347)	July 16 - February 28
East Fork Miller River (07.1329) - Mouth to Great Falls Creek	July 16 - August 15
East Fork Miller River (07.1329) - Upstream of Great Falls Creek	July 16 - February 28
Foss River (07.1562) - Mouth to Forks	July 16 - August 31
East Fork Foss River (07.1562) - Mouth to Burn Creek	July 16 - August 15
East Fork Foss River (07.1562) - Upstream of Burn Creek	July 16 - February 28
West Fork Foss River (07.1573) - Mouth to falls at river mile 2.0	July 16 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
West Fork Foss River (07.1573) - Upstream of falls at river mile 2.0	July 16 - February 28
West Fork Miller River (07.1335)	July 16 - February 28
Money Creek (07.1300) - Mouth to 0.5 mile upstream of Kimball Creek	August 1 - August 31
Money Creek (07.1300) - Upstream of 0.5 mile upstream of Kimball Creek	August 1 - February 28
Kimball Creek (07.1301)	August 1 - August 31
Tye River (07.0012) - Mouth to Alpine Falls	August 1 - August 31
Tye River (07.0012) - Upstream of Alpine Falls	July 16 - February 28
South Fork Snoqualmie River (07.0467)	July 16 - February 28
Denny Creek (07.0517)	July 16 - February 28
Tolt River (07.0291) - Mouth to Forks	August 1 - August 31
North Fork Tolt River (07.0291) - Mouth to Yellow Creek	July 16 - September 15
North Fork Tolt River (07.0291) - Upstream of Yellow Creek	July 16 - February 28
South Fork Tolt River (07.0302) - Mouth to dam	July 16 - September 15
South Fork Tolt River (07.0302) - Upstream of Tolt Reservoir	July 16 - February 28
Yellow Creek (07.0337)	July 16 - February 28
White River (10.0031)	July 16 - August 15
Greenwater River (10.0122)	July 16 - August 15
<b>Kittitas County</b>	July 1 - September 30
Brushy Creek (40.0612)	July 1 - February 28
Colockum Creek (40.0760)	July 1 - October 31
Quilomene Creek (40.0613)	July 1 - October 31
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28
Tarpiscan Creek (40.0723)	July 1 - February 28
Tekiason Creek (40.0686)	July 1 - February 28
Whiskey Dick Creek (40.0591)	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Yakima River (39.0002) - Roza Dam to Teanaway River	August 1 - August 31
Naches River (38.0003) - Tieton River to Bumping River	July 1 - August 15
Little Naches River (38.0852) - Mouth to Matthew Creek	July 16 - August 15
Little Naches River (38.0852) - Upstream of Matthew Creek	July 16 - August 15
Pileup Creek (38.0932)	July 16 - August 31
Gold Creek (38.MISC)	July 16 - February 28
Swauk Creek (39.1157)	July 16 - September 30
Baker Creek (39.1157)	July 16 - September 30
First Creek (39.1157)	July 16 - September 30
Iron Creek (39.1157)	July 16 - September 30
Williams Creek (39.1157)	July 16 - September 30
Boulder Creek (39.1157)	July 16 - February 28
Cougar Gulch (39.1157)	July 16 - February 28
Lion Gulch (39.1157)	July 16 - February 28
Yakima River (39.0002) - Teanaway River to Easton Dam	August 1 - August 31
Yakima River (39.0002) - Upstream of Easton Dam	August 1 - August 31
Cle Elum River (39.1434) - Mouth to dam	July 16 - August 31
Cle Elum River (39.1434) - Upstream of Cle Elum Dam	Submit Application
Big Boulder Creek (39.1434MISC)	August 1 - February 28
Camp Creek (39.1434MISC)	August 1 - February 28
Fortune Creek (39.1434MISC)	August 1 - August 15
South Fork Fortune Creek (39.1434MISC)	August 1 - February 28
Howson Creek (39.1434)	July 16 - February 28
Little Salmon Le Sac Creek (39.1482)	August 1 - August 15
Paris Creek (39.1434MISC)	August 1 - February 28
Salmon Le Sac Creek (39.1520)	August 1 - February 28
Kachess River (39.1739) - Upstream of Lake Kachess	Submit Application
Kachess River (39.1739) - Below dam	July 16 - August 15



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Box Canyon Creek (39.1765)	Submit Application
Mineral Creek (39.1792)	August 1 - August 15
Lake Keechelus (39.1842) tributaries	July 16 - August 15
Gold Creek (Lake Keechelus) (39.1842)	Submit Application
Manastash Creek (39.0988)	July 16 - September 30
Naneum Creek (39.0821)	July 16 - September 30
Taneum Creek (39.1081) - Mouth to I-90	July 16 - August 31
Taneum Creek (39.1157) - Upstream of I-90	July 16 - September 30
Teanaway River (39.1236)	July 16 - August 31
NF Teanaway River (39.1260)	Submit Application
Umtanum Creek (39.0553)	July 16 - September 30
Wenas Creek, Below dam (39.0032)	July 16 - October 15
Wenas Creek, Upstream of Wenas Lake (39.0032)	July 16 - February 28
Other Yakima River tributaries not listed	July 16 - August 31
<b>Kitsap County</b>	July 16 - October 15
Anderson Creek (15.0211)	August 1 - November 15
Barker Creek (15.0255)	August 1 - September 30
Big Beef Creek (15.0389)	August 1 - August 15
Big Scandia Creek (15.0280)	August 1 - September 30
Blackjack Creek (15.0203)	August 1 - September 30
Burley Creek (15.0056)	August 1 - September 30
Chico Creek (15.0229)	August 1 - October 15
Clear Creek (15.0249)	August 1 - September 30
Curley Creek (15.0185)	August 1 - September 30
Dewatto River (15.0420)	August 1 - August 15
Dogfish Creek (15.0285)	August 1 - August 15
Gorst Creek (15.0216)	August 1 - August 15
Grovers Creek (15.0299)	August 1 - August 31
Johnson Creek (15.0387)	August 1 - October 31
Ollala Creek (15.0107)	August 1 - September 30
Ross Creek (15.0209)	August 1 - November 15
Salmonberry Creek (15.0188)	August 1 - November 30
Seabeck Creek (15.0400)	August 1 - August 15
Steele Creek (15.0273)	August 1 - September 30
Tahuya River (15.0446)	August 1 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Union River (15.0503)	August 1 - August 31
<b>Klickitat County</b>	July 15 - September 30
Alder Creek (31.0459)	August 1 - September 30
Chapman Creek (31.0192)	August 1 - September 30
Glade Creek (31.0851)	August 1 - September 30
Juniper Canyon Creek (31.0378)	August 1 - September 30
Klickitat River (30.0002) - Mouth to Klickitat hatchery	Submit Application
Klickitat River (30.0002) - Upstream of Klickitat hatchery	Submit Application
Little White Salmon River (29.0131) - Mouth to Cabbage Creek	July 16 - January 31
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31
Pine Creek (31.0354)	August 1 - September 30
Rock Creek (31.0014)	August 1 - September 30
Six Prong Creek (31.0465)	August 1 - September 30
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15
Wood Gulch Creek (31.0263)	August 1 - September 30
<b>Lewis County</b>	August 1 - September 30
Chehalis River (22.0190/23.0190) - Mouth to South Fork Chehalis River	August 1 - August 15
Chehalis River (22.0190/23.0190) - Upstream of South Fork Chehalis River	August 1 - August 31
Newaukum River (23.0882) - Mouth to South Fork	August 1 - August 31
Newaukum River (23.0882) - Upstream of South Fork	August 1 - August 31
Skookumchuck River (23.0761)	August 1 - August 31
Cowlitz River (26.0002)	August 1 - August 15
Cispus River (26.0668) - Mouth to Squaw Creek (26.1010)	August 1 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Cispus River (26.0668) - Squaw Creek to Chambers Creek	July 16 - February 28
Cispus River (26.0668) - Upstream of Chambers Creek	July 16 - February 28
Yellowjacket Creek (26.0757)	August 1 - August 15
McCoy Creek (26.0766) - Mouth to lower falls	August 1 - August 15
McCoy Creek (26.0766) - Upstream of lower falls	July 16 - February 28
Walupt Creek (26.1010)	Submit Application
Packwood Lake tributaries	August 16 - September 15
Tilton River (26.0560) - Mouth to North Fork	August 1 - September 30
Tilton River (26.0560) - Upstream of North Fork	August 1 - September 30
Toutle River (26.0227)	August 1 - August 31
North Fork Toutle River (26.0314)	July 16 - August 15
Green River (26.0323)	July 16 - September 30
Deschutes River (13.0028)	July 16 - August 31
Little Deschutes River (13.0110)	July 16 - February 28
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30
<b>Lincoln County</b>	June 16 - February 28
Columbia River	See Below
Hawk Creek (53.0101) - Mouth to falls	June 16 - August 31
Hawk Creek (53.0101) - Upstream of falls	June 16 - February 28
Upper Crab Creek (42.0001)	June 16 - February 28
Wilson Creek (43.0020)	June 16 - February 28
<b>Mason County</b>	August 1 - October 15
Cloquallum Creek (22.0501)	August 1 - September 30
Coulter Creek (15.0002)	August 1 - August 31
Dewatto River (15.0420)	August 1 - August 31
Goldsborough Creek (14.0035)	August 1 - October 15
John Creek (16.0253)	August 1 - August 31
Hamma Hamma River (16.0251) - Mouth to falls	August 1 - August 31
Johns Creek (14.0049)	August 1 - August 15
Lilliwaup River (16.0230) - Mouth to falls	August 1 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Lilliwaup River (16.0230) - Upstream of falls	August 1 - February 28
Mill Creek (14.0029)	August 1 - August 15
Satsop River (22.0360)	August 1 - August 31
Schaerer Creek (16.0326)	August 1 - August 31
Sherwood Creek (14.0094)	August 1 - August 15
Skokomish River (16.0001) - Mouth to Forks	August 1 - August 31
Skokomish River (16.0001) - Upstream of Forks	August 1 - August 31
Tahuya River (15.0446)	August 1 - August 31
Twanoh Creek (14.0134)	August 1 - October 31
Union River (15.0503)	August 1 - August 31
<b>Okanogan County</b>	July 1 - August 15
Aneas Creek (49.0243) - Mouth to falls	July 16 - August 31
Aneas Creek (49.0243) - Upstream of falls	July 1 - March 31
Chewiliken Creek (49.0232) - Mouth to falls	July 16 - August 31
Chewiliken Creek (49.0232) - Upstream of falls	July 1 - March 31
Chiliwist Creek (49.0034) - Mouth to falls	July 16 - August 31
Chiliwist Creek (49.0034) - Upstream of falls	July 1 - March 31
Foster Creek (50.0065)	July 1 - February 28
Methow River (48.0007) - Columbia confluence to Twisp River	July 1 - July 31
Methow River tributaries between Black Canyon Creek and Gold Creek	July 1 - February 28
Black Canyon Creek (48.0015) - Mouth to Left Fork	Submit Application
Black Canyon Creek (48.0015) - Upstream of Left Fork	July 1 - February 28
Gold Creek (48.0104) - Mouth to Foggy Dew Creek	Submit Application
Foggy Dew Creek (48.0153) - Mouth to Foggy Dew Falls	Submit Application
Foggy Dew Creek (48.0153) - Upstream of Foggy Dew Falls	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Middle Fork Gold Creek (48.0139)	July 1 - February 28
North Fork Gold Creek (48.0104)	Submit Application
Crater Creek (48.0177) - Mouth to Martin Creek	Submit Application
Crater Creek (48.0177) - Upstream of Martin Creek	July 1 - February 28
Martin Creek (48.0177)	July 1 - February 28
South Fork Gold Creek (48.0105) - Mouth to Rainy Creek	Submit Application
South Fork Gold Creek (48.0105) - Upstream of Rainy Creek	July 1 - February 28
Rainy Creek (48.0105)	July 1 - February 28
McFarland Creek (48.0090) - Mouth to Vinegar Gulch	Submit Application
McFarland Creek (48.0090) - Upstream of Vinegar Gulch	July 1 - February 28
Methow River tributaries between Libby Creek and Beaver Creek	July 1 - February 28
Beaver Creek (48.0307)	Submit Application
Frazer Creek (48.0309)	July 1 - February 28
Lightning Creek (48.0361)	July 1 - February 28
Middle Fork Beaver Creek (48.0307)	July 1 - February 28
South Fork Beaver Creek (48.0342)	July 1 - February 28
Libby Creek (48.0203) - Mouth to Hornet Draw Creek	Submit Application
Libby Creek (48.0203) - Upstream of Hornet Draw	July 1 - February 28
Methow River (48.0007) - Twisp River to Goat Creek	July 1 - July 31
Methow River (48.0007) - Upstream of Goat Creek	July 1 - July 31
Chewuch River (48.0728) - Mouth to Meadow Creek	July 1 - July 31
Chewuch River (48.0728) - Upstream of Meadow Creek	July 1 - February 28
Early Winters Creek (48.1408) - Mouth to Silver Star Creek	Submit Application
Early Winters Creek (48.1408) - Upstream of Silver Star Creek	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Goat Creek (48.1364) - Mouth to 500 feet upstream of Montana Creek	Submit Application
Goat Creek (48.1364) - 500 feet Upstream of Montana Creek to Roundup Creek	July 1 - February 28
Goat Creek (48.1364) - Upstream of Roundup Creek	Submit Application
Lost River (48.0592)	July 16 - August 15
Twisp River (48.0374)	July 1 - July 31
Buttermilk Creek (48.0466)	Submit Application
North Creek (48.0674)	Submit Application
North Fork Twisp River (48.0691)	July 1 - February 28
South Creek (48.0641) - Upstream of Louis Creek	July 1 - February 28
South Creek (48.0641) - Mouth to Louis Creek	Submit Application
South Fork Twisp River (48.0698)	July 1 - February 28
Wolf Creek (48.1300)	Submit Application
Myers Creek (60.0517)	July 1 - February 28
Bolster Creek (60.0517)	July 1 - February 28
Ethel Creek (60.0517)	July 1 - February 28
Gold Creek (60.0517)	July 1 - February 28
Mary Ann Creek (60.0517)	July 1 - February 28
North Fork Mary Ann Creek (60.0517)	July 1 - February 28
Okanogan River (49.0019) - Mouth to Zosel Dam	July 1 - August 31
Antoine Creek (49.0294) - Mouth to velocity gradient at river mile 1.0	July 1 - February 28
Antoine Creek (49.0294) - Upstream of falls	July 1 - March 31
Bonaparte Creek (49.0246) - Upstream of falls	July 1 - March 31
Bonaparte Creek (49.0246) - Mouth to Bonaparte Falls at river mile 1.0	July 1 - February 28
Loup Loup Creek (49.0048) - Mouth to Loup Loup Falls at river mile 2.4	July 1 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Loup Loup Creek (49.0048) - Upstream of Loup Loup Falls at river mile 2.4	July 1 - March 31
Mosquito Creek (49.0321) - Mouth to falls	July 1 - August 31
Mosquito Creek (49.0321) - Upstream of falls	July 1 - March 31
Nine Mile Creek (49.0516)	July 1 - February 28
Omak Creek (49.0138) - Mouth to Mission Falls at river mile 5.4	July 1 - February 28
Omak Creek (49.0138) - Upstream of falls	July 1 - March 31
Salmon Creek (49.0079) - Mouth to diversion	July 1 - August 31
Salmon Creek (49.0079) - Upstream of diversion	July 1 - February 28
Similkameen River (49.0325) - Mouth to Enloe Dam	July 1 - August 31
Similkameen River (49.0325) - Enloe Dam to Palmer Creek	June 1 - October 31
Similkameen River (49.0325) - Upstream of Palmer Creek	July 1 - October 31
Sinlahekin Creek (49.0349) - Mouth to barrier dam at Connors Lake	July 1 - August 31
Cecile Creek (49.0447)	July 1 - February 28
Chopaka Creek (49.0357)	July 1 - February 28
Toats Coulee Creek (49.0368)	July 1 - February 28
Cougar Creek (49.0368)	July 1 - February 28
Siwash Creek (49.0284) - Falls to headwaters	July 1 - March 31
Siwash Creek (49.0284) - Mouth to falls at river mile 1.4	July 1 - February 28
Tonasket Creek (49.0501) - Mouth to Tonasket Falls at river mile 1.8	July 1 - February 28
Tonasket Creek (49.0501) - Upstream of Tonasket Falls at river mile 1.8	July 1 - March 31
Tunk Creek (49.0211) - Mouth to falls	July 1 - February 28
Tunk Creek (49.0211) - Upstream of falls	July 1 - March 31
San Poil River (52.0004)	June 16 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
West Fork San Poil (52.0192)	June 16 - September 30
Gold Creek (52.0197)	June 16 - February 28
Toroda Creek (60.0410)	July 1 - September 30
<b>Pacific County</b>	August 1 - September 30
Bear River (24.0689)	August 1 - September 30
Bone River (24.0405)	August 1 - September 30
Chehalis River (22.0190/23.0190)	August 1 - August 15
Columbia River	See Below
Chinook River (24.MISC)	August 1 - September 30
Grays River (25.0093)	July 16 - September 15
Naselle River (24.0543)	August 1 - September 15
Nemah River (24.0460)	August 1 - September 30
Niawiakum River (24.0417)	August 1 - September 30
North River (24.0034)	August 1 - September 30
Palix River (24.0426)	August 1 - September 30
Willapa River (24.0251)	August 1 - September 30
<b>Pend Oreille County</b>	July 1 - August 31
Little Spokane River (55.0003)	August 1 - March 15
West Branch Little Spokane River (55.0439)	August 1 - March 15
Harvey Creek (62.0310) - Mouth to Rocky Fork of Harvey Creek	August 1 - August 31
Harvey Creek (62.0310) - Upstream of Rocky Fork of Harvey Creek	July 16 - February 28
Pend Oreille River (62.0002)	Submit Application
Big Muddy Creek (62.0279)	August 1 - March 15
Bracket Creek (62.0815)	August 1 - March 15
Calispel Creek (62.0628)	August 1 - August 31
Exposure Creek (62.0261)	August 1 - August 31
Kent Creek (62.0819)	August 1 - March 15
Le Clerc Creek (62.0415)	August 1 - August 31
Lime Creek (62.0014)	August 1 - March 15
Lodge Creek (62.0859)	August 1 - August 31
Lost Creek (62.0322)	August 1 - March 15
Marmust Creek (62.0842)	August 1 - March 15
Pee Wee Creek (62.0007) - Mouth to falls	August 1 - August 31
Pee Wee Creek (62.0007) - Upstream of falls	August 1 - March 15
Renshaw Creek (62.0310)	August 1 - March 15



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Sullivan (O'Sullivan) Creek (62.0074)	August 1 - August 31
North Fork Sullivan Creek (62.0075)	August 1 - August 31
Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 - August 15
Currant Creek (61.0249)	July 16 - August 15
Meadow Creek (61.0351)	July 16 - August 15
Rocky Creek (61.0364)	July 16 - August 15
Silver Creek (61.0195)	July 16 - August 15
Smackout Creek (61.0226)	July 16 - August 15
<b>Pierce County</b>	July 16 - August 31
Chambers/Clover Creek Watershed (12.MISC)	July 16 - September 30
Flett Creek (12.0009)	July 16 - October 31
Leach Creek (12.0008)	July 16 - September 30
Nisqually River (11.0008) - Mouth to Alder Lake	July 16 - August 31
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30
Mashel River (11.0101) - Mouth to Busy Wild Creek	July 16 - September 30
Mashel River (11.0101) - Upstream of Busy Wild Creek	July 16 - September 30
Puyallup River (10.0021) - Mouth to PSE Electron Powerhouse Outfall	July 16 - August 31
Puyallup River (10.0021) - Upstream of PSE Electron Powerhouse Outfall	July 16 - August 15
Carbon River (10.0413)	July 16 - August 15
Cayada Creek (10.0525) - Mouth to falls about 800 feet upstream	July 16 - August 31
Cayada Creek (10.0525) - Upstream of the falls	January 1 - December 31
South Prairie Creek (10.0429)	July 16 - August 15
Voight Creek (10.0414) - Mouth to falls at river mile 4.0	July 16 - August 31
Voight Creek (10.0414) - Upstream of falls river mile 4.0	July 16 - February 28
White River (10.0031)	July 16 - August 15
Clearwater River (10.0080)	July 16 - August 15
Greenwater River (10.0122)	July 16 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Huckleberry Creek (10.0253)	July 16 - August 15
West Fork White River (10.0186)	July 16 - August 15
Sequalitchew Creek (12.0019)	July 16 - September 30
<b>San Juan County</b>	July 1 - August 31
Cascade Creek (02.0057), Orcas Island - Upstream of Lower Falls	July 1 - February 28
Cascade Creek (02.0057), Orcas Island, Buck Bay to falls located approximately 300 feet above mouth	July 1 - October 31
Doe Creek (02.MISC), San Juan Island, Westcott Bay to falls (approximately 250 feet from mouth)	June 16 - October 15
False Bay Creek (02.MISC) - San Juan Island; mouth to lake	July 1 - October 31
Glenwood Springs, Orcas Island; direct tributary to Eastsound Bay	July 1 - October 15
Moran Creek (02.MISC) - Orcas Island; from Cascade Lake delta upstream 1/4 mile	July 1 - October 15
Unnamed Creek (02.0041) - San Juan Island; mouth to lake	July 1 - October 15
<b>Skagit County</b>	August 1 - September 15
Granite Creek (04.2313) - Upstream of East Creek	July 16 - February 28
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28
Samish River (03.0005)	August 1 - September 15
Skagit River (03.0176/04.0176)	Submit Application
Baker River (04.0435) - Mouth to Baker Dam	Submit Application
Cascade River (04.1411)	Submit Application
Day Creek (03.1435)	July 16 - February 28
Lookout Creek (04.1447)	July 16 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Sibley Creek (04.1481)	July 16 - February 28
Day Creek (03.0299) - Mouth to Rocky Creek	Submit Application
Day Creek (03.0299) - Upstream of Rocky Creek	August 1 - February 28
Finney Creek (04.0392) - Mouth to Big Fir Creek	Submit Application
Finney Creek (04.0392) - Upstream of Big Fir Creek	July 16 - February 28
Illabot Creek (04.1346)	Submit Application
Sauk River (04.0673) - Mouth to Forks	Submit Application
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15
Suiattle River (04.0710)	Submit Application
Wiseman Creek (03.0280) - Mouth to SR20	Submit Application
Wiseman Creek (03.0280) - Upstream of SR20	July 16 - February 28
South Fork Nooksack River (01.0246) - Mouth to falls at river mile 30	Submit Application
South Fork Nooksack River (01.0246) - Falls at river mile 30 to Wanlick Creek	Submit Application
South Fork Nooksack River (01.0246) - Upstream of Wanlick Creek	Submit Application
<b>Skamania County</b>	July 15 - September 15
Columbia River	See Below
Cispus River (26.0668)	August 1 - August 15
Cispus River (26.0668) tributaries located in Skamania County	August 1 - October 31
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 - September 30
Hamilton Creek (28.0303)	August 1 - August 31
Hardy Creek (28.0303)	August 1 - August 31
Little White Salmon River (29.0131) - Mouth to Hatchery	July 16 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Little White Salmon River (29.0131) - Hatchery to Cabbage Creek	July 16 - January 31
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31
North Fork Lewis River (27.0168) - Merwin Dam to Lower Falls	July 16 - August 15
Canyon Creek (27.0442)	July 16 - February 28
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - February 28
Washougal River (28.0159) - Mouth to Stebbins Creek	August 1 - August 31
Washougal River (28.0159) - Upstream of Stebbins Creek	August 1 - August 31
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15
Wind River (29.0023)	August 1 - August 15
Woodward Creek (28.0298)	August 1 - August 31
<b>Snohomish County</b>	July 16 - September 15
Lake Washington tributaries	August 1 - August 15
Sauk River (04.0673) - Mouth to Forks	August 1 - August 15
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15
Suiattle River (04.0710)	August 1 - August 15
Snohomish River (07.0012) - Mouth to Highway 9	August 1 - October 31
Snohomish River (07.0012) - Upstream of Highway 9	August 1 - August 15
Pilchuck River (07.0125) - Mouth to city of Snohomish Diversion Dam	August 1 - August 31
Pilchuck River (07.0125) - City of Snohomish Diversion Dam to Boulder Creek	August 1 - September 15
Pilchuck River (07.0125) - Upstream of Boulder Creek	August 1 - September 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Skykomish River (07.0012) - Mouth to Forks	August 1 - August 15
Deer Creek (05.0173) - Mouth to stream mile 0.5	August 1 - August 31
Deer Creek (05.0173) - Upstream of stream mile 0.5	August 1 - February 28
North Fork Skykomish River (07.0982) - Mouth to Bear Creek Falls	August 1 - August 31
North Fork Skykomish River (07.0982) - Bear Creek Falls to Deer Falls	August 1 - August 31
North Fork Skykomish River (07.0982) - Deer Falls to West Cady Creek	August 1 - February 28
North Fork Skykomish River (07.0982) - Upstream of West Cady Creek	August 1 - February 28
Howard Creek (07.1042)	July 16 - February 28
Silver Creek (07.1053) - Mouth to Lake Gulch	August 1 - August 31
Silver Creek (07.1053) - Upstream of Lake Gulch	August 1 - February 28
Troublesome Creek (07.1085)	August 1 - February 28
West Fork Troublesome Creek (07.1092)	August 1 - August 31
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28
Sultan River (07.0881) - Mouth to Diversion Dam at river mile 9.4	August 1 - August 31
Sultan River (07.0881) - Diversion Dam to anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam)	August 1 - August 31

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Sultan River (07.0881) anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam) to Elk Creek	July 16 - February 28
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28
Wallace River (07.0940) - Mouth to Wallace Falls	August 1 - August 31
Wallace River (07.0940) - Upstream of Wallace Falls	August 1 - February 28
Olney Creek (07.0946) - Mouth to Olney Falls	August 1 - August 31
Olney Creek (07.0946) - Upstream of Olney Falls	August 1 - February 28
Snoqualmie River Mouth to falls (07.0219)	August 1 - August 15
All other Snohomish River tributaries	August 1 - August 31
Stillaguamish River (05.0001) - Mouth to Forks	August 1 - August 31
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28
South Fork Stillaguamish River (05.0001) - Mouth to Deer Creek	August 1 - August 15
South Fork Stillaguamish River (05.0001) - Upstream of Deer Creek	August 1 - August 15
<b>Spokane County</b>	June 16 - August 31
Latah Creek (56.0003)	June 16 - August 31
Little Spokane River (55.0600) - Mouth to Deer Creek	June 16 - August 31
Little Spokane River (55.0600) - Upstream of Deer Creek	June 16 - August 31
Spokane River (57.0001)	June 16 - August 31
<b>Stevens County</b>	July 16 - August 31
Columbia River	See Below
Big Sheep Creek (61.0150)	July 16 - August 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Colville River (59.0002) - Mouth to the falls	July 16 - September 30
Colville River (59.0002) - Upstream of the falls	July 16 - September 30
Deep Creek (61.0195)	July 16 - August 15
Onion Creek (61.0098)	July 16 - August 15
Sheep Creek (59.0861)	July 16 - September 30
Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 - February 28
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. border	July 16 - February 28
Tributaries of Little Spokane River (55.0600)	June 16 - August 31
Calispel Creek (62.0628)	August 1 - August 31
Other tributaries to the Pend Oreille River in Stevens County	July 1 - August 31
<b>Thurston County</b>	July 16 - September 15
Cedar Creek (23.0570)	August 1 - September 30
Chehalis River (22.0190/23.0190) - Upstream of Porter Creek	August 1 - August 15
Skookumchuck River (23.0761) - Mouth to Skookumchuck Reservoir	August 1 - August 31
Skookumchuck River (23.0761) - Upstream of Skookumchuck Reservoir	August 1 - August 31
Deschutes River (13.0028) - Mouth to Deschutes Falls	July 16 - August 31
Deschutes River (13.0028) - Upstream of Deschutes Falls	July 16 - August 31
Ellis Creek (13.0022)	May 16 - September 30
Little Deschutes River (13.0110)	July 16 - February 28
McLane Creek (13.0138)	August 1 - October 31
Percival Creek (13.0029)	July 16 - August 31
Nisqually River (11.0008)	July 16 - August 31
Tributaries of Nisqually River (11.0008)	July 16 - August 31
Porter Creek (23.0543)	August 1 - September 30
Schneider Creek (14.0009)	August 1 - October 31
Waddell Creek (23.0677)	August 1 - September 30
Woodard Creek (13.0012)	July 16 - August 31
Woodland Creek (13.0006)	July 16 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
<b>Wahkiakum County</b>	July 16 - September 15
Columbia River	See Below
Abernathy Creek (25.0297)	July 16 - September 15
Deep River (25.0011)	July 16 - September 15
Elochoman River (25.0236)	July 16 - September 15
Grays River (25.0093)	July 16 - September 15
Mill Creek (25.0284)	July 16 - September 15
Naselle River (24.0543)	July 16 - September 15
Skamokowa Creek (25.0194)	July 16 - September 15
<b>Walla Walla County</b>	July 16 - September 30
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15
Touchet River (32.0097) - Mouth to Forks	August 1 - August 15
North Fork Touchet/Wolf Fork (32.0761)	Submit Application
South Fork Touchet (32.0708)	Submit Application
<b>Whatcom County</b>	July 16 - August 15
Damfino Creek (00.0032)	July 16 - August 31
Nooksack River (01.0120)	Submit Application
Cascade Creek (02.0057) - Mouth to FR 37	Submit Application
Cascade Creek (02.0057) - Upstream of FR 37	July 16 - February 28
Middle Fork Nooksack River (01.0339) - Mouth to city of Bellingham Diversion Dam	Submit Application
Middle Fork Nooksack River (01.0339) - Upstream of city of Bellingham Diversion Dam	Submit Application
North Fork Nooksack River (01.0120) - Mouth to Nooksack Falls	Submit Application
North Fork Nooksack River (01.0120) - Upstream of Nooksack Falls	Submit Application
Barometer Creek (01.0513)	July 16 - February 28
Ruth Creek (01.0531)	July 16 - February 28
Swamp Creek (01.0518)	July 16 - February 28



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Wells Creek (02.0057)	Submit Application
Bar Creek (01.0500)	July 16 - February 28
South Fork Nooksack (01.0246) - Mouth to Wanlick Creek	Submit Application
South Fork Nooksack (01.0246) - Upstream of Wanlick Creek	Submit Application
Samish River (03.0005)	July 16 - August 15
Skagit River (03.0176/04.0176)	Submit Application
Baker River (04.0435) - Mouth to Baker Lake Dam (04.0435)	Submit Application
Baker River (04.0435) - Baker Lake to National Park boundary	Submit Application
Boulder Creek (04.0499)	July 16 - February 28
Park Creek (04.0506) - Mouth to fish passage barrier at river mile 1.6	Submit Application
Park Creek (04.0506) - Upstream of river mile 1.6	July 16 - February 28
Swift Creek (04.0509) - Mouth to Rainbow Creek	Submit Application
Swift Creek (04.0509) - Upstream of Rainbow Creek	July 16 - February 28
Ross Lake tributaries (03.0176/04.0176)	Submit Application
Ruby Creek (04.2199)	Submit Application
Canyon Creek (04.2458) - Mouth to Barron Creek	Submit Application
Canyon Creek (04.2458) - Upstream of Barron Creek and tributaries	October 1 - February 28
Barron Creek (04.2591)	October 1 - February 28
Boulder Creek (04.2478) - Mouth to 300 feet upstream	Submit Application
Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Friday Creek (04.2549) - Mouth to 300 feet upstream	Submit Application
Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Holmes Creek (04.2473) - Mouth to 300 feet upstream	Submit Application

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Mill Creek (04.2504) - Mouth to 300 feet upstream	Submit Application
Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters	October 1 - February 28
Nickol Creek (04.2476) - Mouth to 300 feet upstream	Submit Application
Nickol Creek (04.2476) - 300 feet upstream of mouth to headwaters	October 1 - February 28
North Fork Canyon Creek (04.2583) - Mouth to Elk Creek	Submit Application
Cascade Creek (05.2584)	October 1 - February 28
North Fork Canyon Creek (04.2583) - Upstream of Elk Creek	October 1 - February 28
Slate Creek (04.2557) - Mouth to falls at river mile 0.6	Submit Application
Slate Creek (04.2557) - Upstream of falls at river mile 0.6	October 1 - February 28
Granite Creek (04.2313) - Mouth to East Creek	Submit Application
Granite Creek (04.2313) - Upstream of East Creek and tributaries	October 1 - February 28
Saar Creek (00.0003)	August 1 - September 30
Silesia Creek (00.0042) - Canadian border to Middle Fork	July 16 - August 15
Silesia Creek (00.0042) - Middle Fork to National Park boundary	July 16 - February 28
Rapid Creek (00.0048)	July 16 - February 28
West Fork Silesia Creek (00.0044)	July 16 - February 28
Winchester Creek (00.0045)	July 16 - February 28
<b>Whitman County</b>	July 16 - December 15
Snake River (35.0002)	See Below
Alkali Flats Creek (35.0570)	July 16 - December 15
Almota Creek (35.1017)	July 16 - December 15
Little Almota Creek (35.1018)	July 16 - December 15

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Palouse River (34.0003) - Mouth to Palouse Falls	July 16 - September 30
Palouse River (34.0003) - Upstream of Palouse Falls	July 16 - February 28
Penewawa Creek (35.0916)	July 16 - December 15
Wawawi Canyon Creek (35.1165)	July 16 - December 15
<b>Yakima County</b>	June 1 - September 15
Glade Creek (31.0851)	August 1 - September 30
Klickitat River (30.0002)	Submit Application
Yakima River (37.0002/38.0002/39.0002) - Mouth to Roza Dam	June 1 - September 15
Ahtanum Creek (37.1382)	June 16 - September 30
North Fork Ahtanum Creek (37.1382)	Submit Application
South Fork Ahtanum Creek (37.1382)	Submit Application
Naches River (38.0003) - Mouth to Tieton River	July 1 - October 15
Naches River (38.0003) - Upstream of mouth of Tieton River to Bumping River	July 1 - August 15
Bumping River (38.0998)	July 16 - August 15
American River (38.1000)	Submit Application
Gold Creek (38.MISC)	July 16 - February 28
Kettle Creek (38.1033)	Submit Application
Miner Creek (38.1027)	July 16 - February 28
Morse Creek (38.1072) - Mouth to SR410 crossing	August 1 - August 15
Morse Creek (38.1072) - Upstream of SR410 crossing	August 1 - February 28
Rock Creek (38.MISC)	July 16 - February 28
Timber Creek (38.1062)	August 1 - August 15
Union Creek (38.1045) - Upstream of 500 feet above falls	August 1 - February 28
Union Creek (38.1045) - Mouth to 500 feet above falls	Submit Application
Other American River tributaries not listed	August 1 - February 28
Deep Creek (38.MISC)	Submit Application
Copper Creek (38.MISC)	August 1 - August 15
Cowiche Creek (38.0005) - Mouth to South Fork Cowiche Creek	July 1 - September 30

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
North Fork Cowiche Creek (38.0008)	July 1 - February 28
South Fork Cowiche Creek (38.0031) - Mouth to Reynolds Creek	July 1 - September 30
South Fork Cowiche Creek (38.0031) - Upstream of Reynolds Creek	July 16 - October 31
Granite Creek (38.MISC)	August 1 - August 15
Little Naches River (38.0852) - Mouth to Matthews Creek	July 16 - August 15
Little Naches River (38.0852) - Upstream of Matthews Creek	July 16 - August 15
Crow Creek (38.0858)	July 16 - August 15
Nile Creek (38.0692)	July 16 - October 15
Rattlesnake Creek (38.0518)	July 16 - August 15
Tieton River (38.0166) - Mouth to Rimrock Dam	July 1 - August 31
North Fork Tieton River (38.0291) - Below Clear Lake Dam	Submit Application
North Fork Tieton River (38.0291) - Upstream of Clear Lake	July 1 - August 15
Clear Creek (38.0317)	July 16 - February 28
South Fork Tieton River (38.0374) - Below South Fork Falls	Submit Application
South Fork Tieton River (38.0374) - Upstream of South Fork Falls	July 16 - February 28
Indian Creek (38.0302)	Submit Application
Tributaries of Tieton River below Rimrock Dam	July 16 - February 28
Umtanum Creek (39.0553)	July 16 - September 30
Wenas Creek (39.0032)	July 16 - October 15
Other Yakima River tributaries	July 16 - August 31
Columbia River	–
Mouth to the I-205 Bridge	August 1 - March 31
I-205 Bridge to Bonneville Dam	July 16 - September 15
Bonneville Dam to Snake River	July 16 - February 28
Snake River to Priest Rapids Dam	July 16 - September 30
Priest Rapids Dam to Mouth of Crab Creek	July 16 - February 28

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Mineral Prospecting is Allowed Only Between These Dates</b>
Mouth of Crab Creek to Wanapum Dam	July 16 - September 30
Wanapum Dam to the SR 285 bridge in South Wenatchee	July 16 - February 28
SR 285 bridge in South Wenatchee to the SR 2 bridge	July 16 - September 30
SR 2 bridge to one mile downstream of the Chelan River	July 16 - February 28
From one mile downstream of the Chelan River to the SR 97 bridge	July 16 - September 30
From SR 97 bridge to Chief Joseph Dam	July 16 - February 28
Chief Joseph Dam to Grand Coulee Dam	June 16 - March 31
Grand Coulee Dam to Canadian border	Submit Application
All Columbia River tributaries	See County Listings
Snake River	–
Mouth to Ice Harbor Dam	July 16 - September 30
Ice Harbor Dam to Mouth of Clearwater River	July 16 - March 31
Mouth of Clearwater River to state line	August 1 - August 31
All Snake River tributaries	See County Listings
Lakes	Submit Application
Strait of Juan de Fuca, Puget Sound, Hood Canal	Submit Application
Ocean beaches within the Seashore Conservation Area established under RCW 79A.05.605	January 1 - December 31
All waters within Indian tribal reservation, National Park, state park, or wilderness boundaries, except those within the Seashore Conservation Area established under RCW 79A.05.605	Submit Application

AMENDATORY SECTION (Amending WSR 19-12-126, filed 6/5/19, effective 11/1/19)

**WAC 220-660-305 ((Suction dredging.)) Mineral prospecting involving motorized or gravity siphon equipment. (1) Description:**

~~((Suction dredging))~~ Mineral prospecting involving motorized or gravity siphon equipment are projects that excavate, process, ((and)) or classify aggregate using small motorized ((or nonmotorized equipment that removes aggregate from the bed, banks, or uplands by means of vacuum created by water flowing through a tube or hose)) equipment or pumps. Such methods include, but are not limited to, suction dredges, dryland dredges, power sluice/suction dredge combinations, motorized high-bankers or power sluices, trommels, and spiral wheels. These projects also include methods using gravity siphons that supply water for excavating, processing, or classifying aggregate by means of vacuum created by water flowing through a tube or hose, such as gravity dredges or nonmotorized high-bankers. Bulb sniffers are not considered ((suction dredges)) motorized or gravity siphon equipment. The rules in this section apply to using motorized ((and nonmotorized suction dredges)) or gravity siphon equipment . See WAC 220-660-300 for mineral prospecting with other types of equipment ((other than suction dredges)).

(2) **Fish life concerns:** ~~((Suction dredging))~~ Mineral prospecting involving motorized or gravity siphon equipment can harm fish life and habitat that supports fish life.

(a) Direct impacts ~~((from suction dredging))~~ can include:

(i) Mortality from the physical effects of disturbing eggs or fry incubating within the bed;

(ii) Mortality from passing vulnerable fish through ~~((suction dredges))~~ equipment; and

(iii) Lower environmental productivity resulting from habitat modifications such as altered stream beds or lowered water quality.

(b) Indirect impacts can include changes in food resources and human disturbances.

(c) The department minimizes impacts ~~((of suction dredging))~~ by restricting the type of mining equipment allowed, limiting excavation zones within streams, and setting allowable timing windows.

(d) Aquatic invasive species can be transported on or in ~~((suction dredges))~~ motorized and gravity siphon equipment and spread between water bodies. This can harm all life stages of fish life and permanently harm, destroy, or alter ecosystems.

(3) **General requirements:**

(a) Before conducting any ~~((suction dredging activity))~~ mineral prospecting involving motorized or gravity siphon equipment, a person must obtain the approval of the department through the issuance of a standard, single-site written HPA or standard, multisite written HPA as described in WAC 220-660-050. The department must deny an HPA when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. The department may apply saltwater provisions to written HPAs for tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

(b) ~~((When seeking a single site or multisite standard HPA, a person must identify the upstream and downstream extent of each suction dredging location within a stream. The location of each site can be no greater than the length contained within a registered mining claim, if the project occurs on a claim, or one thousand three hundred linear feet of stream, if the project does not occur on a claim.))~~ The department will determine the authorized work time for mineral prospecting activities involving motorized or gravity siphon equipment that discharge water to surface or ground water per WAC 220-660-110.

(c) Nothing in this chapter (~~(220-660-WAC)~~) relieves a person of the duty to obtain landowner permission and any other required permits before conducting any mineral prospecting activity.

(4) **Aquatic invasive species prevention:**

(a) All (~~(suction dredge)~~) motorized or gravity siphon equipment that has been used in waters outside of Washington state must be inspected for the presence of aquatic invasive species by an authorized department employee or agent before being used in waters of the state.

(b) All (~~(suction dredge)~~) motorized or gravity siphon equipment used in any water of the state must be decontaminated according to department specification prior to use in a different water of the state.

(5) (~~(Suction dredging in fresh waters:)~~) **Mineral prospecting involving motorized or gravity siphon equipment:**

(a) A person may (~~(suction dredge)~~) operate motorized or gravity siphon equipment in (~~(fresh)~~) waters of the state only (~~(during the times and)~~) with the mineral prospecting equipment limitations identified in (~~(subsection (7) of)~~) this section and during the times identified in the written HPA.

(b) When (~~(suction dredging)~~) mining using motorized or gravity siphon equipment, a person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

(i) Pans;

(ii) Spiral wheels;

(iii) Concentrators and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;

(iv) Gravity siphons;

(v) Motorized or nonmotorized suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. See Figure 1(~~(-)~~);



**Figure 1: Suction dredge intake nozzle**

(~~(ii)~~) (vi) Power sluice/suction dredge combinations, when configured and operated as suction dredges, that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size. See Figure 1(~~(-~~

~~(c) The suction intake nozzle and hose of suction dredges and power sluice/suction dredge combinations configured and operated as suction dredges must not exceed the diameters allowed in the listing~~

for the stream or stream reach where a person is operating, as identified in subsection (7) of this section.

~~(d) Except when operating a dryland dredge, a person may not excavate aggregate outside of the wetted perimeter.))~~;

(vii) Power sluice/suction dredge combinations, when configured and used as high-bankers or power sluices, that have riffle areas totaling ten square feet or less, including ganged equipment and pump hoses with inside diameters of four inches or less;

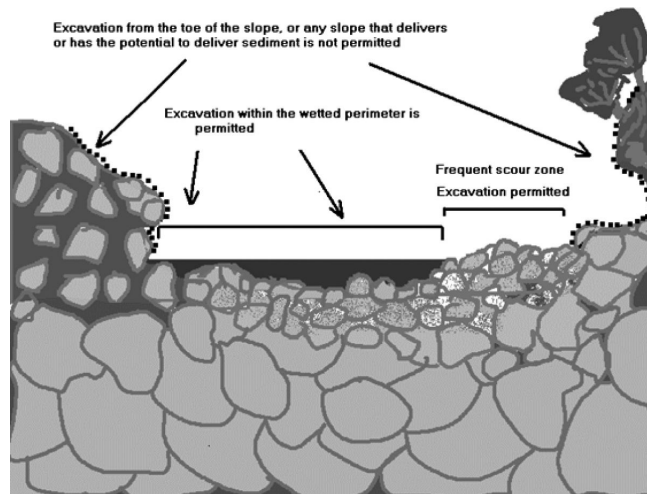
(viii) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

(c) The Washington department of ecology determines where motorized or gravity siphon equipment listed in the previous provision may be used. Contact the Washington department of ecology water quality program for information about the locations where the use of motorized or gravity siphon equipment is allowed.

(d) The suction intake nozzle and hose of suction dredges and power sluice/suction dredge combinations configured and operated as suction dredges must not exceed the diameters allowed in this subsection (5).

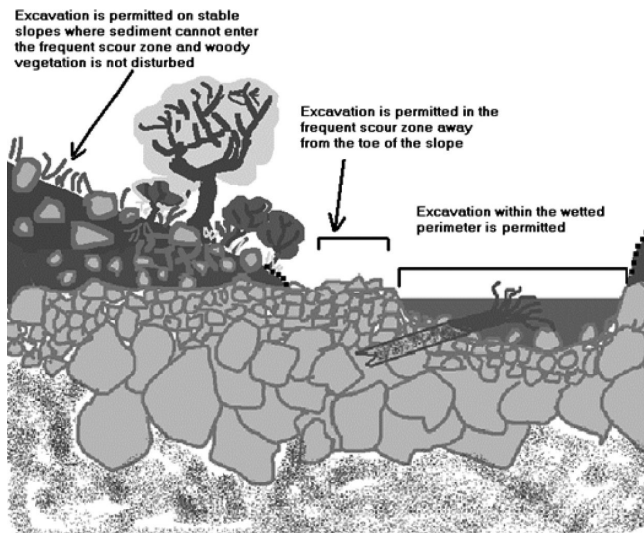
(e) When operating a dryland dredge:

(i) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 2 and 3.



**Figure 2: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites when operating a dryland dredge. Dashed lines indicate areas where excavation is not permitted.**





**Figure 3: Permitted and prohibited excavation sites in a typical body of water under rules for dryland dredging. Dashed lines indicate areas where excavation is not permitted.**

(ii) A person must process aggregate collected from upland areas landward of the frequent scour zone only at an upland location landward of the frequent scour zone. A person may not allow tailings or wastewater to enter the wetted perimeter or frequent scour zone.

(f) A person may not use vehicle-mounted winches. A person may use one motorized winch and one nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

(g) Equipment separation:

(i) A person may use mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.

(ii) When operating ((a suction dredge or power sluice/suction dredge combination configured and operated as a suction dredge)) ~~motorized or gravity siphon equipment other than that identified in (g)(i) of this subsection,~~ a person's equipment must be at least two hundred feet from all others also operating ((this type of equipment or any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), high-banker, or power sluice)) any type of motorized or gravity siphon equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is ((actually)) operating within that two hundred foot radius.

(h) ~~((As provided in RCW 77.57.010 and 77.57.070,))~~ Any device a person uses for ((pumping)) removing water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the ((pump)) intake. A person must screen the ((pump)) intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(i) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

(j) A person may work within the wetted perimeter or frequent scour zone only from one-half hour before official sunrise to one-half hour after official sunset. If a person's mineral prospecting equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

(k) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

(l) A person must not disturb existing fish habitat improvement structures or stream channel improvements.

(m) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material.

(n) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

(o) A person may work in only one excavation site at a time. However, you may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.

(p) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site.

~~((p))~~ (q) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or has the potential to deliver, sediment to the wetted perimeter or frequent scour zone.

~~((q))~~ (r) A person may partially divert a body of water into mineral prospecting equipment using natural or artificial materials provided the diversion is constructed by hand. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter. Before abandoning the site, a person must remove artificial materials used in the construction of a diversion structure and restore the site to its approximate original condition.

(s) A person may process aggregate collected from the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; mini high-bankers; or other concentrators with riffle areas totaling three square feet or less, including ganged equipment.

(ii) Only in the frequent scour zone or upland areas landward of the frequent scour zone if a person uses power sluice/suction dredge combinations, high-bankers, or power sluices with riffle areas total-

ing ten square feet or less, including ganged equipment; or sluices or rocker boxes that have riffle areas totaling more than three but less than ten square feet, including ganged equipment. A person may not discharge tailings to the wetted perimeter when using this equipment. However, you may discharge wastewater to the wetted perimeter if its entry point into the wetted perimeter is at least two hundred feet from any other wastewater discharge entry point.

(t) A person may process aggregate collected from the upland areas landward of the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; concentrators; or mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment. A person must classify the aggregate at the collection or excavation site prior to processing with this equipment within the wetted perimeter or frequent scour zone;

(ii) Only at an upland location landward of the frequent scour zone if a person uses power sluice/suction dredge combinations, high-bankers, or power sluices. A person may not discharge tailings or wastewater into the wetted perimeter or frequent scour zone.

~~((r))~~ (u) A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter, for crevicing using a dryland dredge, or for introducing water under low pressure to an excavation site from the nozzle of a dryland dredge. No other use of pressurized water is permitted.

~~((s))~~ (v) A person may conduct crevicing in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing may not have an inside diameter larger than 3/4-inch. If a person crevices landward of the frequent scour zone, a person may not discharge sediment or wastewater to the wetted perimeter or the frequent scour zone.

(w) A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

~~((t))~~ (x) A person may not disturb redds. If a person observes or encounters redds or actively spawning fish when collecting or processing aggregate, a person must relocate the operation.

~~((u))~~ (y) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

**(6) ~~((Suction dredging)) Mineral prospecting involving motorized or gravity siphon equipment on ocean beaches:~~** A person may ~~((suction dredge)) operate motorized or gravity siphon equipment~~ year-round on ocean beaches of the state. A person must follow the rules listed below:

(a) A person may ~~((suction dredge)) operate~~ only between the line of ordinary high tide and the line of extreme low tide on beaches within the seashore conservation area set under RCW 79A.05.605 and managed by Washington state parks and recreation commission.

(b) When ~~((suction dredging)) operating motorized or gravity siphon equipment~~, a person may use only hand-held mineral prospecting tools and the ~~((following mineral prospecting equipment):~~

~~(i) Motorized or nonmotorized suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size;~~

~~(ii) Power sluice/suction dredge combinations, when configured and operated as suction dredges, that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size)) equipment authorized in subsection (5) (b) of this section.~~

(c) Motorized types of mineral prospecting equipment listed in the previous provision may be used ONLY in waters in Grays Harbor, and Pacific counties that are NOT designated under the Endangered Species Act as critical habitat for salmon, steelhead, or bull trout. A map identifying waters where motorized methods are allowed is available from Washington department of ecology.

(d) A person may not use vehicle-mounted winches. A person may use one ((motorized winch and one)) nonmotorized hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

~~((d) Under RCW 77.57.010 and 77.57.070,)) (e) Any device a person uses for ((pumping)) removing water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the ((pump)) intake. A person must screen the ((pump)) intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.~~

~~((e)) (f) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water and beach, and contact the Washington military department emergency management division. A person may not return the equipment to the water or beach until the problem is corrected. A person must store fuel and lubricants away from the water inside a vehicle or landward of the beach, and in the shade when possible.~~

~~((f)) (g) A person may work only from one-half hour before official sunrise to one-half hour after official sunset. ((If a person uses mineral prospecting equipment in a fish-bearing freshwater stream and the equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.~~

~~(g)) (h) A person may not undermine, cut, disturb, or move embedded large woody material or woody debris jams.~~

~~((h)) (i) A person must backfill all trenches, depressions, or holes created in the beach during project activities before moving to~~

another excavation site (except during use as a settling pond) or leaving an excavation site.

~~((i))~~ A person may partially divert a body of water into suction dredges. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter of a fish-bearing stream, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

~~(j)~~ A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

~~(k))~~ (j) A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter ~~((, for creviceing using a dryland dredge, or for introducing water under low pressure to an excavation site from the nozzle of a dryland dredge))~~. No other use of pressurized water is permitted.

~~((l))~~ (k) A person may not disturb live razor clams or other shellfish within the bed. If a person observes or encounters live razor clams or other shellfish during excavation, the person must relocate the operation.

~~((m))~~ (l) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department, and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

~~((7))~~ **Authorized work times and suction dredge restrictions by specific state waters for suction dredging projects:**

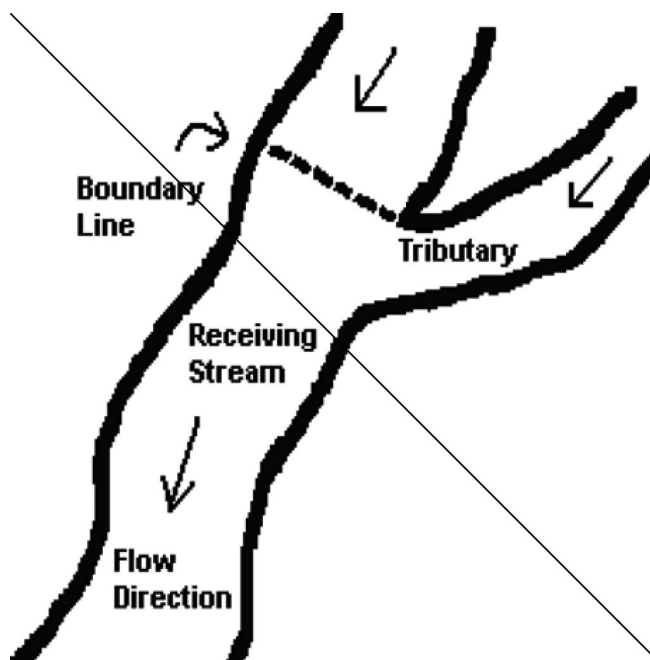
~~(a)~~ A person may suction dredge under subsection ~~(5)~~ of this section in any of the state waters, with the equipment restrictions, and during the times specified in the following table of authorized work times following issuance of a standard single site or multisite written HPA.

~~(b)~~ The general work time for a county applies to all state waters within that county unless otherwise indicated in the table.

~~(c)~~ The work time for state waters identified in the table of authorized work times applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the table for the county in which mineral prospecting or placer mining is to be conducted to determine the work time for that water body.

~~(d)~~ Where a tributary is identified as a boundary, that boundary is the line perpendicular to the receiving stream that is projected from the most upstream point of the tributary mouth to the opposite bank of the receiving stream. See Figure 4.

~~(e)~~ A person wishing to suction dredge within water bodies identified in the table of authorized work times as "submit application" or at different work times or using different equipment than listed in the following table of authorized work times must obtain a standard single site or multisite written HPA to work in these water bodies.



**Figure 4: Where the boundary is located if a tributary listed as a boundary.**

(f) Suction dredging using suction dredges that have suction intake nozzles with inside diameters that should be four inches or less, but must be no greater than four and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle, is authorized only in the state waters identified in the table of authorized work times, and any tributaries to them, unless otherwise indicated in the table. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

(g) Suction dredging using suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle is authorized only in the state waters specifically identified in the table of authorized work times. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. A person may use only suction dredges with suction intake nozzle inside diameters of four and one-quarter inches or less in tributaries of these state waters. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

**Table 1  
Authorized Work Times and Suction Dredge Restrictions by Specific  
State Waters for Mineral Suction Dredge Projects**

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
<b>Adams County</b>	July 1 - October 31	X	-
Crab Creek (41.0002)	July 16 - February 28	X	X
Esquatzel Creek (36.MISC)	June 1 - February 28	X	X
Palouse River (34.0003)	July 16 - February 28	X	X
<b>Asotin County</b>	July 16 - September 15	X	-
Snake River (35.0002)	See Below	-	-
Alpowa Creek (35.1440)	July 16 - December 15	X	-
Asotin Creek (35.1716)	July 16 - August 15	X	-
Couse Creek (35.2147)	July 16 - December 15	X	-
Grande Ronde River (35.2192)	July 16 - September 15	X	X
Ten Mile Creek (35.2100)	July 16 - December 15	X	-
<b>Benton County</b>	June 1 - September 30	X	-
Columbia River	See Below	-	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Yakima River (37.0002)	June 1 - September 15	X	X
Amon Wasteway (37.0009)	June 1 - September 30	X	-
Corral Creek (37.0002)	June 1 - September 30	X	-
Spring Creek (37.0205)	June 1 - September 30	X	-
<b>Chelan County</b>	July 16 - August 15	X	-
Columbia River	See Below	-	-
Antoine Creek (49.0294) - Mouth to falls at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls at river mile 1.0	July 1 - March 31	X	-
Chelan River (47.0052) - Mouth to Chelan Dam	July 16 - September 30	X	X
Coloekum Creek (40.0760)	July 1 - October 31	X	-
Entiat River (46.0042) - Mouth to Entiat Falls	July 16 - July 31	X	X
Entiat River (46.0042) - Upstream of Entiat Falls	July 16 - March 31	X	-
Crum Canyon (46.0107)	July 16 - March 31	X	-
Mad River (46.0125)	July 16 - July 31	X	-
Indian Creek (46.0128)	July 16 - February 28	X	-
Lake Chelan (47.0052)	Submit Application	-	-
Railroad Creek (47.0410)	July 16 - September 30	X	-
Stehekin River (47.0508)	Submit Application	-	-
Twenty-Five Mile Creek (47.0195)	July 16 - September 30	X	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Other Lake Chelan tributaries outside of North Cascades National Park	July 1 - August 15	X	-
Other Lake Chelan tributaries within North Cascades National Park	Submit Application	-	-
Number 1 Canyon (45.0011)	July 1 - February 28	X	-
Number 2 Canyon (45.0012)	July 1 - February 28	X	-
Squilehuck Creek (40.0836) - Mouth to South Wenatchee Avenue	July 1 - September 30	X	-
Squilehuck Creek (40.0836) - Upstream of South Wenatchee Avenue	July 1 - February 28	X	-
Stemilt Creek (40.0808) - Mouth to falls	July 1 - September 30	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Wenatchee River (45.0030) - Mouth to Hwy 2 Bridge in Leavenworth	July 15 - September 30	X	X
Wenatchee River (45.0030) - Hwy 2 Bridge in Leavenworth to Lake Wenatchee	July 15 - August 15	X	X
Beaver Creek (45.0751)	July 1 - September 30	X	-
Chiwaukum Creek (45.0700)	July 1 - July 31	X	-
Chiwawa River (45.0759) - Mouth to Phelps Creek	July 1 - July 31	X	X
Chiwawa River (45.0759) - Upstream of Phelps Creek	July 1 - July 31	X	-
Deep Creek (45.0764)	July 1 - February 28	X	-
Phelps Creek (45.0875)	July 16 - August 15	X	-
Ieicle Creek (45.0474) - Mouth to Johnny Creek	July 1 - July 31	X	X
Ieicle Creek (45.0474) - Upstream of Johnny Creek	July 1 - July 31	X	-
Fourth of July Creek (45.0525)	July 1 - February 28	X	-
Lake Wenatchee (45.0030)	Submit Application	-	-
Little Wenatchee (45.0985) - Mouth to Wilderness Boundary	July 1 - July 31	X	X
Little Wenatchee (45.0985) - Upstream of Wilderness Boundary	Submit Application	-	-



<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
White River (45.1116)-Mouth to White River Falls	July 1 - July 31	X	X
White River (45.1116)-Upstream of White River Falls	July 1 - February 28	X	-
Nason Creek (45.0888)	July 1 - July 31	X	-
Peshastin Creek (45.0232)-Mouth to Etienne Creek	July 16 - August 15	X	-
Peshastin Creek (45.0232)-Upstream of Etienne Creek	August 1 - February 28	X	-
Ingalls Creek (45.0273)-Mouth to Cascade Creek	Submit Application	-	-
Ingalls Creek (45.0273)-Upstream of Cascade Creek	July 16 - February 28	X	-
Etienne Creek (45.0323)-Mouth to falls at stream mile 2.9	Submit Application	-	-
Etienne Creek (45.0323)-Upstream of falls at stream mile 2.9	July 16 - February 28	X	-
Ruby Creek (45.0318)	July 16 - February 28	X	-
Tronson Creek (45.0346)	August 1 - February 28	X	-
Scotty Creek (45.0376)	August 1 - February 28	X	-
Shaser Creek (45.0365)	August 1 - February 28	X	-
<b>Clallam County</b>	July 16 - September 15	X	-
Clallam River (19.0129)	August 1 - August 15	X	-
Dungeness River (18.0018)	Submit Application	-	-
Independent Creek (18.MISC)	August 1 - August 31	X	-
Elwha River (18.0272)	August 1 - August 15	X	X
Hoko River (19.0148)	August 1 - September 15	X	-
Jimmycomelately Creek (17.0285)	August 1 - August 31	X	-
Lake Ozette (20.0046)	Submit Application	-	-
Little Quileene River (17.0076)	July 16 - August 31	X	-
Lake Ozette tributaries	July 16 - September 15	X	-
Lyre River (19.0031)	August 1 - September 15	X	-
McDonald Creek (18.0160)	August 1 - September 15	X	-
Morse Creek (18.0185)	August 1 - August 15	X	-
Ozette River (20.0046)	July 16 - September 15	X	-
Pysht River (19.0113)	August 1 - September 15	X	-
Quillayute River (20.0096, 20.0162, 20.0175)	August 1 - August 15	X	X
Bogachiel River (20.0162)	Submit Application	-	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Calawah River (20.0175)	August 1 – August 15	X	X
Salmon Creek (17.0245)	July 16 – August 31	X	–
Sekiu River (19.0203)	August 1 – September 15	X	–
Snow Creek (17.0219)	July 16 – August 31	X	–
Sol Duc River (20.0096)	Submit Application	–	–
Lake Pleasant (20.0313)	Submit Application	–	–
Lake Pleasant tributaries	July 16 – September 15	X	–
Sooes River (20.0015)	July 16 – September 15	X	–
<b>Clark County</b>	July 16 – September 30	–	–
Columbia River	See Below	–	–
Lacamas Creek (28.0160)-Mouth to dam	August 1 – August 31	X	–
Lacamas Creek (28.0160)-Upstream of dam	August 1 – September 30	X	–
Lewis River (27.0168)	August 1 – August 15	X	X
East Fork Lewis River (27.0173) – Mouth to Lucia Falls	August 1 – August 15	X	X
East Fork Lewis River (27.0173) – Lucia Falls to Sunset Falls	August 1 – February 28	X	X
East Fork Lewis River (27.0173) – Upstream of Sunset Falls	August 1 – February 28	X	–
Lake River (28.0020)	January 1 – December 31	X	X
Burnt Bridge Creek (28.0143)	August 1 – August 31	X	–
Salmon Creek (28.0059)	August 1 – August 31	X	–
Whipple Creek (28.0038)	August 1 – September 30	X	–
North Fork Lewis River (27.0334) – Confluence of East Fork to Merwin Dam	August 1 – August 15	X	X
Cedar Creek (27.0339)	August 1 – September 15	X	–
North Fork Lewis River (27.0334) – Merwin Dam to Lower Falls	July 16 – August 15	X	X
Canyon Creek (27.0442)	July 16 – February 28	X	–
North Fork Lewis River (27.0168) – Upstream of Lower Falls	July 16 – August 15	X	X
Washougal River (28.0159) – Mouth to headwaters	August 1 – August 31	X	X
<b>Columbia County</b>	July 16 – September 30	X	–
Touchet River (32.0097)	August 1 – August 15	X	X

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Grande Ronde River tributaries (35.2192)	July 16 – August 15	X	–
North Fork Touchet/Wolf Fork (32.0761)	Submit Application	–	–
South Fork Touchet (32.0708)	Submit Application	–	–
Tucannon River (35.0009)	July 16 – August 15	X	X
Walla Walla River (32.0008) – Mouth to Oregon state line	July 16 – September 15	X	X
Mill Creek (32.1436) – Mouth to Oregon state line	August 1 – August 15	X	–
<b>Cowlitz County</b>	July 16 – September 30	X	–
Chehalis River (22.0190/23.0190) – South Fork Chehalis River – Mouth to Fisk Falls	August 1 – August 31	X	X
Chehalis River (22.0190/23.0190) – South Fork Chehalis River – Upstream of Fisk Falls	August 1 – August 31	X	–
Columbia River	See Below	–	–
Abernathy Creek (25.0297)	July 16 – September 15	X	–
Burke Creek (27.0148)	August 1 – August 31	X	–
Burris Creek (27.0151)	August 1 – August 31	X	–
Bybee Creek (27.0142)	August 1 – August 31	X	–
Canyon Creek (27.0147)	August 1 – August 31	X	–
Coal Creek (25.0340)	July 16 – September 15	X	–
Clark Creek (25.0371)	August 1 – August 31	X	–
Cowlitz River (26.0002) – Mouth to barrier dam at river mile 49.5	July 16 – August 15	X	X
Coweeman River (26.0003) – Mouth to Baird Creek	August 1 – August 31	X	X
Coweeman River (26.0003) – Upstream of Baird Creek	August 1 – August 31	X	–
Cowlitz River (26.0002) – Tributaries below barrier dam to mouth	July 16 – September 30	X	–
Owl Creek (26.1441)	July 16 – September 15	X	–
Toutle River (26.0227)	July 16 – August 15	X	X
North Fork Toutle River (26.0314) – Mouth to Debris Dam	July 16 – August 15	X	X
North Fork Toutle River (26.0314) – Upstream of Debris Dam	July 16 – August 15	X	–

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Green River (26.0323)-Mouth to Shultz Creek	July 16 – September 30	X	X
Green River (26.0323)-Upstream of Shultz Creek	July 16 – September 30	X	-
South Fork Toutle (26.0248) -Mouth to Bear Creek	July 16 – September 15	X	X
South Fork Toutle (26.0248) -Upstream of Bear Creek	July 16 – September 15	X	-
Tributaries to Silver Lake	July 16 – September 30	X	-
Germany Creek (25.0313)	July 16 – September 15	X	-
Kalama River (27.0002)-Mouth to Kalama Falls	August 1 – August 15	X	X
Kalama River (27.0002)-Upstream of Kalama Falls	August 1 – August 15	X	-
Lewis River (27.0168)-Mouth to East Fork Lewis River	August 1 – August 15	X	X
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 – August 15	X	X
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 – August 15	X	X
Mill Creek (25.0284)	July 16 – September 15	X	-
Schoolhouse Creek (27.0139)	August 1 – August 31	X	-
<b>Douglas County</b>	July 1 – September 30	X	-
Columbia River	See Below	-	-
Douglas Creek Canyon (44.0146)	May 16 – January 31	X	-
Foster Creek (50.0065)	August 1 – April 15	X	-
McCarteney Creek (44.0002)	July 1 – February 28	X	-
Pine/Corbaley Canyon Creek (44.0779)	September 16 – April 15	X	-
Rock Island Creek (44.0630)	July 1 – September 30	X	-
<b>Ferry County</b>	July 1 – August 31	X	-
Columbia River	See Below	-	-
Kettle River (60.0002)	June 16 – August 31	X	X
Boulder Creek (60.0130)-Mouth to Hodgson Road Bridge	Submit Application	-	-
Boulder Creek (60.0130)-Upstream of Hodgson Road Bridge	June 16 – February 28	X	-

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Deadman Creek (60.0008) – Mouth to SR395 Crossing	Submit Application	–	–
Deadman Creek (60.0008) – Upstream of SR395	June 16 – February 28	X	–
Goosmus Creek (60.0254)	June 16 – February 28	X	–
Toroda Creek (60.0410)	July 1 – September 30	X	–
San Poil River (52.0004)	June 16 – September 30	X	X
Granite Creek (52.0099) – Mouth to Powerhouse Dam	June 16 – September 30	X	–
Granite Creek (52.0099) – Upstream of Powerhouse Dam	June 16 – February 28	X	–
West Fork San Poil River (52.0192) – Mouth to Deep Creek	June 16 – September 30	X	X
West Fork San Poil River (52.0192) – Upstream of Deep Creek	June 16 – September 30	X	–
Gold Creek (52.0197)	June 16 – February 28	X	–
<b>Franklin County</b>	June 1 – September 30	X	–
Columbia River	See Below	–	–
Snake River	See Below	–	–
Palouse River (34.0003)	July 16 – February 28	X	X
North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River	June 16 – October 31	X	–
<b>Garfield County</b>	July 16 – September 30	X	–
Snake River (35.0003)	See Below	–	–
Alpowa Creek (35.1440)	July 16 – December 15	X	–
Asotin Creek (35.1716)	July 16 – August 15	X	–
Deadman Creek (35.0688)	July 16 – December 15	X	–
Grande Ronde River tributaries (35.2192)	July 16 – August 15	X	–
Meadow Creek (35.0689)	July 16 – December 15	X	–
Tucannon River (35.0009) – Mouth to Panjab Creek	July 16 – August 15	X	X
Tucannon River (35.0009) – Upstream of Panjab Creek	July 16 – August 15	X	–
Pataha Creek (35.0123) – Mouth to Pataha Creek	January 1 – December 31	X	–
Pataha Creek (35.0123) – Upstream of Pataha Creek	July 16 – December 31	X	–
<b>Grant County</b>	July 1 – October 31	X	–
Columbia River	See Below	–	–

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Crab Creek (41.0002)	July 16 – September 15	X	X
Grays Harbor County	July 16 – October 15	X	–
Chehalis River (22.0190/23.0190) – Mouth to Porter Creek	August 1 – August 31	X	X
Chehalis River (22.0190/23.0190) – Porter Creek to Fisk Falls	August 1 – August 15	X	X
Chehalis River (22.0190/23.0190) – Upstream of Fisk Falls	August 1 – August 15	X	–
Cedar Creek (23.0570)	August 1 – September 30	X	–
Cloquallum Creek (22.0501)	August 1 – September 30	X	–
Porter Creek (23.0543)	August 1 – September 30	X	–
Satsop River (22.0360)	August 1 – August 31	X	X
Wishkah River (22.0191)	August 1 – October 15	X	X
Wynoochee River (22.0260)	August 1 – September 30	X	X
Copalis River (21.0767)	August 1 – October 15	X	X
Elk River (22.1333)	July 1 – October 31	X	X
Hoquiam River (22.0137)	August 1 – October 15	X	X
Humtulpis River (22.0004) – Mouth to Forks	August 1 – September 30	X	X
Humtulpis River (22.0004) – Upstream of Forks	August 1 – September 30	X	–
Johns River (22.1270)	August 1 – September 30	X	X
Moelips River (21.0731)	August 1 – October 15	X	X
North River (24.0034)	August 1 – September 30	X	X
Queets River (21.0001)	August 1 – August 15	X	X
Quinault River (21.0398)	August 1 – August 15	X	X
Raft River (21.0337)	August 1 – October 15	X	X
<b>Island County</b>	June 16 – October 15	X	–
Cavalero Creek (06.0065)	June 16 – December 15	X	–
Chapman Creek (06.0070)	June 16 – December 15	X	–
Crescent Creek (06.0002)	June 16 – December 15	X	–
Cultus Creek (06.0026)	June 16 – March 15	X	–
Deer Creek (06.0024)	June 16 – March 15	X	–
Dugualla Creek (06.0001)	June 16 – March 15	X	–
Glendale Creek (06.0025)	June 16 – December 15	X	–
Kristoferson Creek (06.0062-06.0063)	May 1 – December 15	X	–
Maxwelton Creek (06.0029)	June 16 – December 15	X	–
North Bluff Creek (06.0006)	June 16 – March 15	X	–

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Old Clinton Creek (06.0023)	June 16 – March 15	X	–
<b>Jefferson County</b>	July 16 – October 31	X	–
Big Quileene River (17.0012) – Mouth to falls	July 16 – August 31	X	X
Big Quileene River (17.0012) – Falls to Forks	August 1 – February 28	X	X
Big Quileene River (17.0012) – Upstream of Forks	August 1 – February 28	X	–
Bogachiel River (20.0162)	Submit Application	–	–
Chimacum Creek (17.0203)	July 16 – September 15	X	–
Donovan Creek (17.0115)	July 1 – October 15	X	–
Dosewallips River (16.0442)	July 16 – August 15	X	–
Duckabush River (16.0351)	July 16 – August 15	X	–
Dungeness River (18.0018)	August 1 – August 15	X	–
Elwha River (18.0272)	August 1 – August 15	X	X
Goodman Creek (20.0406)	August 1 – September 15	X	–
Hoh River (20.0422)	August 1 – August 15	X	X
Little Quileene River (17.0076)	July 16 – August 31	X	–
Queets River (21.0001)	August 1 – August 15	X	X
Matheny Creek (21.0165)	August 1 – August 15	X	–
Sams River (21.0205)	August 1 – August 15	X	X
Quinalt River (21.0398)	August 1 – August 15	X	X
Salmon Creek (17.0245)	July 16 – August 31	X	–
Skokomish River (16.0001)	August 1 – August 31	X	X
Snow Creek (17.0219)	July 16 – August 31	X	–
Tarboo Creek (17.0129)	August 1 – September 30	X	–
Thorndyke Creek (17.0170)	August 1 – October 15	X	–
<b>King County</b>	July 16 – September 30	X	–
Cedar River (08.0299) – Mouth to Forks	August 1 – August 31	X	X
Cedar River (08.0299) – Upstream of Forks	August 1 – August 31	X	–
Issaquah Creek (08.0178)	August 1 – August 31	X	–
Sammamish River (08.0057)	August 1 – August 31	X	–
Steele Creek (08.0379)	July 16 – February 28	X	–
Green River (Duwamish River) (09.0001) – Mouth to Sawmill Creek	August 1 – August 31	X	X

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Green River (Duwamish River) (09.0001) - Upstream of Sawmill Creek	August 1 - August 31	X	-
Lake Washington tributaries (08.LKWA)	August 1 - August 31	X	-
Snoqualmie River (07.0219) - Mouth to Snoqualmie Falls	August 1 - August 15	X	X
Snoqualmie River (07.0219) - Snoqualmie Falls to mouth of South Fork	July 16 - February 28	X	X
Patterson Creek (07.0376)	July 16 - September 30	X	-
Middle Fork Snoqualmie River (07.0219) - Mouth to Taylor Creek	July 16 - February 28	X	X
Middle Fork Snoqualmie River (07.0219) - Upstream of Taylor Creek	July 16 - February 28	X	-
Goat Creek (07.0754)	July 16 - February 28	X	-
North Fork Snoqualmie River (07.0527) - Mouth to Lennox Creek	July 16 - February 28	X	X
North Fork Snoqualmie River (07.0527) - Upstream of Lennox Creek	July 16 - February 28	X	-
Deep Creek (07.0562)	July 16 - February 28	X	-
Illinois Creek (07.0624)	July 16 - February 28	X	-
Lennox Creek (07.0596)	July 16 - February 28	X	-
Bear Creek (07.0606)	July 16 - February 28	X	-
Raging River (07.0384)	August 1 - September 15	X	X
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
South Fork Skykomish River (07.0012) - Upstream of Sunset Falls	August 1 - August 15	X	-
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	-
Index Creek (07.1264) - Mouth to Mud Lake Creek	August 1 - August 31	X	-



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Index Creek (07.1264)- Upstream of Mud Lake Creek including Salmon Creek	July 16 - February 28	X	-
Miller River (07.1329)- Mouth to Forks	August 1 - August 15	X	X
Miller River (07.1329)- Upstream of Forks	August 1 - August 15	X	-
Coney Creek (07.1347)	July 16 - February 28	X	-
East Fork Miller River (07.1329) - Mouth to Great Falls Creek	July 16 - August 15	X	-
East Fork Miller River (07.1329) - Upstream of Great Falls Creek	July 16 - February 28	X	-
Foss River (07.1562)- Mouth to Forks	July 16 - August 31	X	X
East Fork Foss River (07.1562) - Mouth to Burn Creek	July 16 - August 15	X	X
East Fork Foss River (07.1562) - Upstream of Burn Creek	July 16 - February 28	X	-
West Fork Foss River (07.1573) - Mouth to falls at river mile 2.0	July 16 - August 31	X	-
West Fork Foss River (07.1573) - Upstream of falls at river mile 2.0	July 16 - February 28	X	-
West Fork Miller River (07.1335)	July 16 - February 28	X	X
Money Creek (07.1300)- Mouth to 0.5 mile upstream of Kimball Creek	August 1 - August 31	X	-
Money Creek (07.1300)- Upstream of 0.5 mile upstream of Kimball Creek	August 1 - February 28	X	-
Kimball Creek (07.1301)	August 1 - August 31	X	-
Tye River (07.0012)- Mouth to Alpine Falls	August 1 - August 31	X	X
Tye River (07.0012)- Upstream of Alpine Falls	July 16 - February 28	X	-
South Fork Snoqualmie River (07.0467)	July 16 - February 28	X	X
Denny Creek (07.0517)	July 16 - February 28	X	-
Tolt River (07.0291)- Mouth to Forks	August 1 - August 31	X	X

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North Fork Tolt River (07.0291) - Mouth to Yellow Creek	July 16 - September 15	X	X
North Fork Tolt River (07.0291) - Upstream of Yellow Creek	July 16 - February 28	X	-
South Fork Tolt River (07.0302) - Mouth to dam	July 16 - September 15	X	X
South Fork Tolt River (07.0302) - Upstream of Tolt Reservoir	July 16 - February 28	X	-
Yellow Creek (07.0337)	July 16 - February 28	X	-
White River (10.0031)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
<b>Kittitas County</b>	July 1 - September 30	X	-
Brushy Creek (40.0612)	July 1 - February 28	X	-
Coloekum Creek (40.0760)	July 1 - October 31	X	-
Quilomene Creek (40.0613)	July 1 - October 31	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Tarpisean Creek (40.0723)	July 1 - February 28	X	-
Tekiason Creek (40.0686)	July 1 - February 28	X	-
Whiskey Dick Creek (40.0591)	July 1 - February 28	X	-
Yakima River (39.0002) - Roza Dam to Teanaway River	August 1 - August 31	X	X
Naches River (38.0003) - Tieton River to Bumping River	July 1 - August 15	X	X
Little Naches River (38.0852) - Mouth to Matthew Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthew Creek	July 16 - August 15	X	-
Pileup Creek (38.0932)	July 16 - August 31	X	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Swauk Creek (39.1157)	July 16 - September 30	X	-
Baker Creek (39.1157)	July 16 - September 30	X	-
First Creek (39.1157)	July 16 - September 30	X	-
Iron Creek (39.1157)	July 16 - September 30	X	-
Williams Creek (39.1157)	July 16 - September 30	X	-
Boulder Creek (39.1157)	July 16 - February 28	X	-
Cougar Gulch (39.1157)	July 16 - February 28	X	-

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Lion Gulch (39.1157)	July 16 – February 28	X	–
Yakima River (39.0002)– Teanaway River to Easton Dam	August 1 – August 31	X	X
Yakima River (39.0002)– Upstream of Easton Dam	August 1 – August 31	X	X
Cle Elum River (39.1434)– Mouth to dam	July 16 – August 31	X	X
Cle Elum River (39.1434)– Upstream of Cle Elum Dam	Submit Application	–	–
Big Boulder Creek (39.1434MISC)	August 1 – February 28	X	–
Camp Creek (39.1434MISC)	August 1 – February 28	X	–
Fortune Creek (39.1434MISC)	August 1 – August 15	X	–
South Fork Fortune Creek (39.1434MISC)	August 1 – February 28	X	–
Howson Creek (39.1434)	July 16 – February 28	X	–
Little Salmon Le Sac Creek (39.1482)	August 1 – August 15	X	–
Paris Creek (39.1434MISC)	August 1 – February 28	X	–
Salmon Le Sac Creek (39.1520)	August 1 – February 28	X	–
Kachess River (39.1739)– Upstream of Lake Kachess	Submit Application	–	–
Kachess River (39.1739)– Below dam	July 16 – August 15	X	X
Box Canyon Creek (39.1765)	Submit Application	–	–
Mineral Creek (39.1792)	August 1 – August 15	X	–
Lake Keechelus (39.1842) tributaries	July 16 – August 15	X	–
Gold Creek (Lake Keechelus) (39.1842)	Submit Application	–	–
Manastash Creek (39.0988)	July 16 – September 30	X	–
Naneum Creek (39.0821)	July 16 – September 30	X	–
Taneum Creek (39.1081)– Mouth to I-90	July 16 – August 31	X	–
Taneum Creek (39.1157)– Upstream of I-90	July 16 – September 30	X	–
Teanaway River (39.1236)	July 16 – August 31	X	X
NF Teanaway River (39.1260)	Submit Application	–	–
Umtanum Creek (39.0553)	July 16 – September 30	X	–

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Wenas Creek, Below dam (39.0032)	July 16 – October 15	X	–
Wenas Creek, Upstream of Wenas Lake (39.0032)	July 16 – February 28	X	–
Other Yakima River tributaries not listed	July 16 – August 31	X	–
<b>Kitsap County</b>	July 16 – October 15	X	–
Anderson Creek (15.0211)	August 1 – November 15	X	–
Barker Creek (15.0255)	August 1 – September 30	X	–
Big Beef Creek (15.0389)	August 1 – August 15	X	–
Big Seandia Creek (15.0280)	August 1 – September 30	X	–
Blaekjaek Creek (15.0203)	August 1 – September 30	X	–
Burley Creek (15.0056)	August 1 – September 30	X	–
Chico Creek (15.0229)	August 1 – October 15	X	–
Clear Creek (15.0249)	August 1 – September 30	X	–
Curley Creek (15.0185)	August 1 – September 30	X	–
Dewatto River (15.0420)	August 1 – August 15	X	–
Dogfish Creek (15.0285)	August 1 – August 15	X	–
Gorst Creek (15.0216)	August 1 – August 15	X	–
Grovers Creek (15.0299)	August 1 – August 31	X	–
Johnson Creek (15.0387)	August 1 – October 31	X	–
Ollala Creek (15.0107)	August 1 – September 30	X	–
Ross Creek (15.0209)	August 1 – November 15	X	–
Salmonberry Creek (15.0188)	August 1 – November 30	X	–
Seabeck Creek (15.0400)	August 1 – August 15	X	–
Steele Creek (15.0273)	August 1 – September 30	X	–
Tahuya River (15.0446)	August 1 – August 31	X	X
Union River (15.0503)	August 1 – August 31	X	X
<b>Klickitat County</b>	July 15 – September 30	X	–
Alder Creek (31.0459)	August 1 – September 30	X	–
Chapman Creek (31.0192)	August 1 – September 30	X	–
Glade Creek (31.0851)	August 1 – September 30	X	–
Juniper Canyon Creek (31.0378)	August 1 – September 30	X	–
Klickitat River (30.0002) – Mouth to Klickitat hatchery	Submit Application	–	–
Klickitat River (30.0002) – Upstream of Klickitat hatchery	Submit Application	–	–
Little White Salmon River (29.0131) – Mouth to Cabbage Creek	July 16 – January 31	X	X

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Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
Pine Creek (31.0354)	August 1 - September 30	X	-
Rock Creek (31.0014)	August 1 - September 30	X	-
Six Prong Creek (31.0465)	August 1 - September 30	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wood Gulch Creek (31.0263)	August 1 - September 30	X	-
<b>Lewis County</b>	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190) - Mouth to South Fork Chehalis River	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of South Fork Chehalis River	August 1 - August 31	X	X
Newaukum River (23.0882) - Mouth to South Fork	August 1 - August 31	X	X
Newaukum River (23.0882) - Upstream of South Fork	August 1 - August 31	X	-
Skookumehuck River (23.0761)	August 1 - August 31	X	X
Cowlitz River (26.0002)	August 1 - August 15	X	X
Cispus River (26.0668) - Mouth to Squaw Creek (26.1010)	August 1 - August 15	X	X
Cispus River (26.0668) - Squaw Creek to Chambers Creek	July 16 - February 28	X	X
Cispus River (26.0668) - Upstream of Chambers Creek	July 16 - February 28	X	-
Yellowjacket Creek (26.0757)	August 1 - August 15	X	-
McCoy Creek (26.0766) - Mouth to lower falls	August 1 - August 15	X	-
McCoy Creek (26.0766) - Upstream of lower falls	July 16 - February 28	X	-
Walupt Creek (26.1010)	Submit Application	-	-
Packwood Lake tributaries	August 16 - September 15	X	-

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Tilton River (26.0560)-Mouth to North Fork	August 1 - September 30	X	X
Tilton River (26.0560)-Upstream of North Fork	August 1 - September 30	X	-
Toutle River (26.0227)	August 1 - August 31	X	X
North Fork Toutle River (26.0314)	July 16 - August 15	X	X
Green River (26.0323)	July 16 - September 30	X	X
Deschutes River (13.0028)	July 16 - August 31	X	X
Little Deschutes River (13.0110)	July 16 - February 28	X	-
Nisqually River (11.0008)-Upstream of Alder Lake	July 16 - September 30	X	X
<b>Lincoln County</b>	June 16 - February 28	X	-
Columbia River	See Below	-	-
Hawk Creek (53.0101)-Mouth to falls	June 16 - August 31	X	-
Hawk Creek (53.0101)-Upstream of falls	June 16 - February 28	X	-
Upper Crab Creek (42.0001)	June 16 - February 28	X	-
Wilson Creek (43.0020)	June 16 - February 28	X	-
<b>Mason County</b>	August 1 - October 15	X	-
Cloquallum Creek (22.0501)	August 1 - September 30	X	-
Coulter Creek (15.0002)	August 1 - August 31	X	-
Dewatto River (15.0420)	August 1 - August 31	X	-
Goldsborough Creek (14.0035)	August 1 - October 15	X	-
John Creek (16.0253)	August 1 - August 31	X	-
Hamma Hamma River (16.0251) - Mouth to falls	August 1 - August 31	X	-
Johns Creek (14.0049)	August 1 - August 15	X	-
Lilliwaup River (16.0230)-Mouth to falls	August 1 - August 31	X	X
Lilliwaup River (16.0230)-Upstream of falls	August 1 - February 28	X	-
Mill Creek (14.0029)	August 1 - August 15	X	-
Satsop River (22.0360)	August 1 - August 31	X	-
Schaerer Creek (16.0326)	August 1 - August 31	X	-
Sherwood Creek (14.0094)	August 1 - August 15	X	-
Skokomish River (16.0001) - Mouth to Forks	August 1 - August 31	X	X
Skokomish River (16.0001) - Upstream of Forks	August 1 - August 31	X	-

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Tahuya River (15.0446)	August 1 – August 31	X	–
Twanoh Creek (14.0134)	August 1 – October 31	X	–
Union River (15.0503)	August 1 – August 31	X	X
<b>Okanogan County</b>	July 1 – August 15	X	–
Aneas Creek (49.0243) – Mouth to falls	July 16 – August 31	X	–
Aneas Creek (49.0243) – Upstream of falls	July 1 – March 31	X	–
Chewiliken Creek (49.0232) – Mouth to falls	July 16 – August 31	X	–
Chewiliken Creek (49.0232) – Upstream of falls	July 1 – March 31	X	–
Chiliwist Creek (49.0034) – Mouth to falls	July 16 – August 31	X	–
Chiliwist Creek (49.0034) – Upstream of falls	July 1 – March 31	X	–
Foster Creek (50.0065)	July 1 – February 28	X	–
Methow River (48.0007) – Columbia confluence to Twisp River	July 1 – July 31	X	X
Methow River tributaries between Black Canyon Creek and Gold Creek	July 1 – February 28	X	–
Black Canyon Creek (48.0015) – Mouth to Left Fork	Submit Application	–	–
Black Canyon Creek (48.0015) – Upstream of Left Fork	July 1 – February 28	X	–
Gold Creek (48.0104) – Mouth to Foggy Dew Creek	Submit Application	–	–
Foggy Dew Creek (48.0153) – Mouth to Foggy Dew Falls	Submit Application	–	–
Foggy Dew Creek (48.0153) – Upstream of Foggy Dew Falls	July 1 – February 28	X	–
Middle Fork Gold Creek (48.0139)	July 1 – February 28	X	–
North Fork Gold Creek (48.0104)	Submit Application	–	–
Crater Creek (48.0177) – Mouth to Martin Creek	Submit Application	–	–
Crater Creek (48.0177) – Upstream of Martin Creek	July 1 – February 28	X	–
Martin Creek (48.0177)	July 1 – February 28	X	–

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South Fork Gold Creek (48.0105) - Mouth to Rainy Creek	Submit Application	-	-
South Fork Gold Creek (48.0105) - Upstream of Rainy Creek	July 1 - February 28	X	-
Rainy Creek (48.0105)	July 1 - February 28	X	-
McFarland Creek (48.0090) - Mouth to Vinegar Gulch	Submit Application	-	-
McFarland Creek (48.0090) - Upstream of Vinegar Gulch	July 1 - February 28	X	-
Methow River tributaries between Libby Creek and Beaver Creek	July 1 - February 28	X	-
Beaver Creek (48.0307)	Submit Application	-	-
Frazer Creek (48.0309)	July 1 - February 28	X	-
Lightning Creek (48.0361)	July 1 - February 28	X	-
Middle Fork Beaver Creek (48.0307)	July 1 - February 28	X	-
South Fork Beaver Creek (48.0342)	July 1 - February 28	X	-
Libby Creek (48.0203) - Mouth to Hornet Draw Creek	Submit Application	-	-
Libby Creek (48.0203) - Upstream of Hornet Draw	July 1 - February 28	X	-
Methow River (48.0007) - Twisp River to Goat Creek	July 1 - July 31	X	X
Methow River (48.0007) - Upstream of Goat Creek	July 1 - July 31	X	-
Chewuch River (48.0728) - Mouth to Meadow Creek	July 1 - July 31	X	X
Chewuch River (48.0728) - Upstream of Meadow Creek	July 1 - February 28	X	-
Early Winters Creek (48.1408) - Mouth to Silver Star Creek	Submit Application	-	-
Early Winters Creek (48.1408) - Upstream of Silver Star Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Mouth to 500 feet upstream of Montana Creek	Submit Application	-	-
Goat Creek (48.1364) - 500 feet Upstream of Montana Creek to Roundup Creek	July 1 - February 28	X	-



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Goat Creek (48.1364) - Upstream of Roundup Creek	Submit Application	-	-
Lost River (48.0592)	July 16 - August 15	X	X
Twisp River (48.0374)	July 1 - July 31	X	X
Buttermilk Creek (48.0466)	Submit Application	-	-
North Creek (48.0674)	Submit Application	-	-
North Fork Twisp River (48.0691)	July 1 - February 28	X	-
South Creek (48.0641) - Upstream of Louis Creek	July 1 - February 28	X	-
South Creek (48.0641) - Mouth to Louis Creek	Submit Application	-	-
South Fork Twisp River (48.0698)	July 1 - February 28	X	-
Wolf Creek (48.1300)	Submit Application	-	-
Myers Creek (60.0517)	July 1 - February 28	X	-
Bolster Creek (60.0517)	July 1 - February 28	X	-
Ethel Creek (60.0517)	July 1 - February 28	X	-
Gold Creek (60.0517)	July 1 - February 28	X	-
Mary Ann Creek (60.0517)	July 1 - February 28	X	-
North Fork Mary Ann Creek (60.0517)	July 1 - February 28	X	-
Okanogan River (49.0019) - Mouth to Zosel Dam	July 1 - August 31	X	X
Antoine Creek (49.0294) - Mouth to velocity gradient at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Mouth to Bonaparte Falls at river mile 1.0	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Mouth to Loup Loup Falls at river mile 2.4	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Upstream of Loup Loup Falls at river mile 2.4	July 1 - March 31	X	-
Mosquito Creek (49.0321) - Mouth to falls	July 1 - August 31	X	-
Mosquito Creek (49.0321) - Upstream of falls	July 1 - March 31	X	-
Nine Mile Creek (49.0516)	July 1 - February 28	X	-

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Omak Creek (49.0138)- Mouth to Mission Falls at river mile 5.4	July 1 - February 28	X	-
Omak Creek (49.0138)- Upstream of falls	July 1 - March 31	X	-
Salmon Creek (49.0079)- Mouth to diversion	July 1 - August 31	X	-
Salmon Creek (49.0079)- Upstream of diversion	July 1 - February 28	X	-
Similkameen River (49.0325) - Mouth to Enloe Dam	July 1 - August 31	X	X
Similkameen River (49.0325) - Enloe Dam to Palmer Creek	June 1 - October 31	X	X
Similkameen River (49.0325) - Upstream of Palmer Creek	July 1 - October 31	X	X
Sinlahekin Creek (49.0349) - Mouth to barrier dam at Connors Lake	July 1 - August 31	X	-
Ceeile Creek (49.0447)	July 1 - February 28	X	-
Chopaka Creek (49.0357)	July 1 - February 28	X	-
Toats Coulee Creek (49.0368)	July 1 - February 28	X	-
Cougar Creek (49.0368)	July 1 - February 28	X	-
Siwash Creek (49.0284)- Falls to headwaters	July 1 - March 31	X	-
Siwash Creek (49.0284)- Mouth to falls at river mile 1.4	July 1 - February 28	X	-
Tonasket Creek (49.0501)- Mouth to Tonasket Falls at river mile 1.8	July 1 - February 28	X	-
Tonasket Creek (49.0501)- Upstream of Tonasket Falls at river mile 1.8	July 1 - March 31	X	-
Tunk Creek (49.0211)- Mouth to falls	July 1 - February 28	X	-
Tunk Creek (49.0211)- Upstream of falls	July 1 - March 31	X	-
San Poil River (52.0004)	June 16 - September 30	X	X
West Fork San Poil (52.0192)	June 16 - September 30	X	X
Gold Creek (52.0197)	June 16 - February 28	X	-
Toroda Creek (60.0410)	July 1 - September 30	X	-
<b>Pacific County</b>	August 1 - September 30	X	-
Bear River (24.0689)	August 1 - September 30	X	X

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Bone River (24.0405)	August 1 – September 30	X	–
Chehalis River (22.0190/23.0190)	August 1 – August 15	X	X
Columbia River	See Below	–	–
Chinook River (24.MISC)	August 1 – September 30	X	X
Grays River (25.0093)	July 16 – September 15	X	X
Naselle River (24.0543)	August 1 – September 15	X	X
Nemah River (24.0460)	August 1 – September 30	X	X
Niawiakum River (24.0417)	August 1 – September 30	X	–
North River (24.0034)	August 1 – September 30	X	X
Palix River (24.0426)	August 1 – September 30	X	–
Willapa River (24.0251)	August 1 – September 30	X	X
<b>Pend Oreille County</b>	July 1 – August 31	X	–
Little Spokane River (55.0003)	August 1 – March 15	X	–
West Branch Little Spokane River (55.0439)	August 1 – March 15	X	–
Harvey Creek (62.0310)– Mouth to Rocky Fork of Harvey Creek	August 1 – August 31	X	–
Harvey Creek (62.0310)– Upstream of Rocky Fork of Harvey Creek	July 16 – February 28	X	–
Pend Oreille River (62.0002)	Submit Application	–	–
Big Muddy Creek (62.0279)	August 1 – March 15	X	–
Braeket Creek (62.0815)	August 1 – March 15	X	–
Calispel Creek (62.0628)	August 1 – August 31	X	–
Exposure Creek (62.0261)	August 1 – August 31	X	–
Kent Creek (62.0819)	August 1 – March 15	X	–
Le Clere Creek (62.0415)	August 1 – August 31	X	–
Lime Creek (62.0014)	August 1 – March 15	X	–
Lodge Creek (62.0859)	August 1 – August 31	X	–
Lost Creek (62.0322)	August 1 – March 15	X	–
Marmust Creek (62.0842)	August 1 – March 15	X	–
Pee Wee Creek (62.0007)– Mouth to falls	August 1 – August 31	X	–
Pee Wee Creek (62.0007)– Upstream of falls	August 1 – March 15	X	–
Renshaw Creek (62.0310)	August 1 – March 15	X	–
Sullivan (O'Sullivan) Creek (62.0074)	August 1 – August 31	X	–
North Fork Sullivan Creek (62.0075)	August 1 – August 31	X	–

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Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 -- August 15	X	-
Currant Creek (61.0249)	July 16 -- August 15	X	-
Meadow Creek (61.0351)	July 16 -- August 15	X	-
Rocky Creek (61.0364)	July 16 -- August 15	X	-
Silver Creek (61.0195)	July 16 -- August 15	X	-
Smaekout Creek (61.0226)	July 16 -- August 15	X	-
<b>Pierce County</b>	July 16 -- August 31	X	-
Chambers/Clover Creek Watershed (12.MISC)	July 16 -- September 30	X	-
Flett Creek (12.0009)	July 16 -- October 31	X	-
Leach Creek (12.0008)	July 16 -- September 30	X	-
Nisqually River (11.0008)-Mouth to Alder Lake	July 16 -- August 31	X	X
Nisqually River (11.0008)-Upstream of Alder Lake	July 16 -- September 30	X	X
Mashel River (11.0101)-Mouth to Busy Wild Creek	July 16 -- September 30	X	X
Mashel River (11.0101)-Upstream of Busy Wild Creek	July 16 -- September 30	X	-
Puyallup River (10.0021)-Mouth to PSE Electron Powerhouse Outfall	July 16 -- August 31	X	X
Puyallup River (10.0021)-Upstream of PSE Electron Powerhouse Outfall	July 16 -- August 15	X	X
Carbon River (10.0413)	July 16 -- August 15	X	X
Cayada Creek (10.0525)-Mouth to falls about 800 feet upstream	July 16 -- August 31	X	-
Cayada Creek (10.0525)-Upstream of the falls	January 1 -- December 31	X	-
South Prairie Creek (10.0429)	July 16 -- August 15	X	-
Voight Creek (10.0414)-Mouth to falls at river mile 4.0	July 16 -- August 31	X	-
Voight Creek (10.0414)-Upstream of falls river mile 4.0	July 16 -- February 28	X	-
White River (10.0031)	July 16 -- August 15	X	X
Clearwater River (10.0080)	July 16 -- August 15	X	X
Greenwater River (10.0122)	July 16 -- August 15	X	X
Huckleberry Creek (10.0253)	July 16 -- August 15	X	-

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West Fork White River (10.0186)	July 16 – August 15	X	X
Sequalitchew Creek (12.0019)	July 16 – September 30	X	–
<b>San Juan County</b>	July 1 – August 31	X	–
Cascade Creek (02.0057), Oreas Island – Upstream of Lower Falls	July 1 – February 28	X	–
Cascade Creek (02.0057), Oreas Island, Buck Bay to falls located approximately 300 feet above mouth	July 1 – October 31	X	–
Doe Creek (02.MISC), San Juan Island, Westcott Bay to falls (approximately 250 feet from mouth)	June 16 – October 15	X	–
False Bay Creek (02.MISC) – San Juan Island; mouth to lake	July 1 – October 31	X	–
Glenwood Springs, Oreas Island; direct tributary to Eastsound Bay	July 1 – October 15	X	–
Moran Creek (02.MISC) – Oreas Island; from Cascade Lake delta upstream 1/4 mile	July 1 – October 15	X	–
Unnamed Creek (02.0041) – San Juan Island; mouth to lake	July 1 – October 15	X	–
<b>Skagit County</b>	August 1 – September 15	X	–
Granite Creek (04.2313) – Upstream of East Creek	July 16 – February 28	X	–
North Fork Stillaguamish River (05.0135) – Mouth to Squire Creek	August 1 – August 15	X	X
North Fork Stillaguamish River (05.0135) – Squire Creek to Cascade Creek	August 1 – August 15	X	–
North Fork Stillaguamish River (05.0135) – Upstream of Cascade Creek	July 16 – February 28	X	–
Samish River (03.0005)	August 1 – September 15	X	–
Skagit River (03.0176/04.0176)	Submit Application	–	–
Baker River (04.0435) – Mouth to Baker Dam	Submit Application	–	–
Cascade River (04.1411)	Submit Application	–	–
Day Creek (03.1435)	July 16 – February 28	X	–
Lookout Creek (04.1447)	July 16 – February 28	X	–

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Sibley Creek (04.1481)	July 16 – February 28	X	–
Day Creek (03.0299) – Mouth to Rocky Creek	Submit Application	–	–
Day Creek (03.0299) – Upstream of Rocky Creek	August 1 – February 28	X	–
Finney Creek (04.0392) – Mouth to Big Fir Creek	Submit Application	–	–
Finney Creek (04.0392) – Upstream of Big Fir Creek	July 16 – February 28	X	–
Hlabot Creek (04.1346)	Submit Application	–	–
Sauk River (04.0673) – Mouth to Forks	Submit Application	–	–
Sauk River (04.0673) – Upstream of Forks	August 1 – August 15	X	–
Suiattle River (04.0710)	Submit Application	X	X
Wiseman Creek (03.0280) – Mouth to SR20	Submit Application	–	–
Wiseman Creek (03.0280) – Upstream of SR20	July 16 – February 28	X	–
South Fork Nooksack River (01.0246) – Mouth to falls at river mile 30	Submit Application	–	–
South Fork Nooksack River (01.0246) – Falls at river mile 30 to Wanlick Creek	Submit Application	–	–
South Fork Nooksack River (01.0246) – Upstream of Wanlick Creek	Submit Application	–	–
<b>Skamania County</b>	July 15 – September 15	X	–
Columbia River	See Below	–	–
Cispus River (26.0668)	August 1 – August 15	X	X
Cispus River (26.0668) tributaries located in Skamania County	August 1 – October 31	X	–
East Fork Lewis River (27.0173) – Lucia Falls to Sunset Falls	August 1 – February 28	X	X
East Fork Lewis River (27.0173) – Upstream of Sunset Falls	August 1 – February 28	X	–
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 – September 30	X	X
Hamilton Creek (28.0303)	August 1 – August 31	X	–
Hardy Creek (28.0303)	August 1 – August 31	X	–
Little White Salmon River (29.0131) – Mouth to Hatchery	July 16 – August 15	X	X

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Little White Salmon River (29.0131) - Hatchery to Cabbage Creek	July 16 - January 31	X	X
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
North Fork Lewis River (27.0168) - Merwin Dam to Lower Falls	July 16 - August 15	X	X
Canyon Creek (27.0442)	July 16 - February 28	X	-
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - February 28	X	X
Washougal River (28.0159) - Mouth to Stebbins Creek	August 1 - August 31	X	X
Washougal River (28.0159) - Upstream of Stebbins Creek	August 1 - August 31	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wind River (29.0023)	August 1 - August 15	X	X
Woodward Creek (28.0298)	August 1 - August 31	X	-
<b>Snohomish County</b>	July 16 - September 15	X	-
Lake Washington tributaries	August 1 - August 15	X	-
Sauk River (04.0673) - Mouth to Forks	August 1 - August 15	X	X
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15	X	-
Suiattle River (04.0710)	August 1 - August 15	X	X
Snohomish River (07.0012) - Mouth to Highway 9	August 1 - October 31	X	X
Snohomish River (07.0012) - Upstream of Highway 9	August 1 - August 15	X	X
Pilehuck River (07.0125) - Mouth to city of Snohomish Diversion Dam	August 1 - August 31	X	X
Pilehuck River (07.0125) - City of Snohomish Diversion Dam to Boulder Creek	August 1 - September 15	X	X
Pilehuck River (07.0125) - Upstream of Boulder Creek	August 1 - September 15	X	-
Skykomish River (07.0012) - Mouth to Forks	August 1 - August 15	X	X

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Deer Creek (05.0173)- Mouth to stream mile 0.5	August 1 - August 31	X	-
Deer Creek (05.0173)- Upstream of stream mile 0.5	August 1 - February 28	X	-
North Fork Skykomish River (07.0982) - Mouth to Bear Creek Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Bear Creek Falls to Deer Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Deer Falls to West Cady Creek	August 1 - February 28	X	X
North Fork Skykomish River (07.0982) - Upstream of West Cady Creek	August 1 - February 28	X	-
Howard Creek (07.1042)	July 16 - February 28	X	-
Silver Creek (07.1053)- Mouth to Lake Gulch	August 1 - August 31	X	-
Silver Creek (07.1053)- Upstream of Lake Gulch	August 1 - February 28	X	-
Troublesome Creek (07.1085)	August 1 - February 28	X	-
West Fork Troublesome Creek (07.1092)	August 1 - August 31	X	-
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
Beckler River (07.1413)- Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413)- Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461)- Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461)- Upstream of Meadow Creek	August 1 - February 28	X	X
Sultan River (07.0881)- Mouth to Diversion Dam at river mile 9.4	August 1 - August 31	X	X
Sultan River (07.0881)- Diversion Dam to anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmbach Dam)	August 1 - August 31	X	X



Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Suction Dredging is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Sultan River (07.0881) anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam) to Elk Creek	July 16 – February 28	X	X
Sultan River (07.0881)-Upstream of Elk Creek	July 16 – February 28	X	–
Wallace River (07.0940)-Mouth to Wallace Falls	August 1 - August 31	X	X
Wallace River (07.0940)-Upstream of Wallace Falls	August 1 - February 28	X	–
Olney Creek (07.0946)-Mouth to Olney Falls	August 1 – August 31	X	–
Olney Creek (07.0946)-Upstream of Olney Falls	August 1 - February 28	X	–
Snoqualmie River Mouth to falls (07.0219)	August 1 – August 15	X	X
All other Snohomish River tributaries	August 1 – August 31	X	–
Stillaguamish River (05.0001) – Mouth to Forks	August 1 – August 31	X	X
North Fork Stillaguamish River (05.0135) – Mouth to Squire Creek	August 1 – August 15	X	X
North Fork Stillaguamish River (05.0135) – Squire Creek to Cascade Creek	August 1 – August 15	X	–
North Fork Stillaguamish River (05.0135) – Upstream of Cascade Creek	July 16 – February 28	X	–
South Fork Stillaguamish River (05.0001) – Mouth to Deer Creek	August 1 – August 15	X	X
South Fork Stillaguamish River (05.0001) – Upstream of Deer Creek	August 1 – August 15	X	–
<b>Spokane County</b>	June 16 – August 31	X	–
Latah Creek (56.0003)	June 16 – August 31	X	–
Little Spokane River (55.0600) – Mouth to Deer Creek	June 16 – August 31	X	X
Little Spokane River (55.0600) – Upstream of Deer Creek	June 16 - August 31	X	–
Spokane River (57.0001)	June 16 – August 31	X	X
<b>Stevens County</b>	July 16 – August 31	X	–
Columbia River	See Below	–	–
Big Sheep Creek (61.0150)	July 16 – August 15	X	–

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Colville River (59.0002)- Mouth to the falls	July 16 - September 30	X	X
Colville River (59.0002)- Upstream of the falls	July 16 - September 30	X	X
Deep Creek (61.0195)	July 16 - August 15	X	-
Onion Creek (61.0098)	July 16 - August 15	X	-
Sheep Creek (59.0861)	July 16 - September 30	X	-
Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 - February 28	X	-
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. border	July 16 - February 28	X	-
Tributaries of Little Spokane River (55.0600)	June 16 - August 31	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Other tributaries to the Pend Oreille River in Stevens County	July 1 - August 31	X	-
<b>Thurston County</b>	July 16 - September 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190)- Upstream of Porter Creek	August 1 - August 15	X	X
Skookumchuck River (23.0761) - Mouth to Skookumchuck Reservoir	August 1 - August 31	X	X
Skookumchuck River (23.0761) - Upstream of Skookumchuck Reservoir	August 1 - August 31	X	-
Deschutes River (13.0028)- Mouth to Deschutes Falls	July 16 - August 31	X	X
Deschutes River (13.0028)- Upstream of Deschutes Falls	July 16 - August 31	X	-
Ellis Creek (13.0022)	May 16 - September 30	X	-
Little Deschutes River (13.0110)	July 16 - February 28	X	-
McLane Creek (13.0138)	August 1 - October 31	X	-
Pereival Creek (13.0029)	July 16 - August 31	X	-
Nisqually River (11.0008)	July 16 - August 31	X	X
Tributaries of Nisqually River (11.0008)	July 16 - August 31	X	-
Porter Creek (23.0543)	August 1 - September 30	X	-
Schneider Creek (14.0009)	August 1 - October 31	X	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Waddell Creek (23.0677)	August 1 – September 30	X	–
Woodard Creek (13.0012)	July 16 – August 31	X	–
Woodland Creek (13.0006)	July 16 – September 30	X	–
<b>Wahkiakum County</b>	July 16 – September 15	X	–
Columbia River	See Below	–	–
Abernathy Creek (25.0297)	July 16 – September 15	X	–
Deep River (25.0011)	July 16 – September 15	X	X
Elochoman River (25.0236)	July 16 – September 15	X	X
Grays River (25.0093)	July 16 – September 15	X	X
Mill Creek (25.0284)	July 16 – September 15	X	–
Naselle River (24.0543)	July 16 – September 15	X	X
Skamokawa Creek (25.0194)	July 16 – September 15	X	–
<b>Walla Walla County</b>	July 16 – September 30	X	–
Walla Walla River (32.0008) – Mouth to Oregon state line	July 16 – September 15	X	X
Mill Creek (32.1436) – Mouth to Oregon state line	August 1 – August 15	X	–
Touchet River (32.0097) – Mouth to Forks	August 1 – August 15	X	X
North Fork Touchet/Wolf Fork (32.0761)	Submit Application	–	–
South Fork Touchet (32.0708)	Submit Application	–	–
<b>Whatcom County</b>	July 16 – August 15	X	–
Damfino Creek (00.0032)	July 16 – August 31	X	–
Nooksack River (01.0120)	Submit Application	–	–
Cascade Creek (02.0057) – Mouth to FR 37	Submit Application	–	–
Cascade Creek (02.0057) – Upstream of FR 37	July 16 – February 28	X	–
Middle Fork Nooksack River (01.0339) – Mouth to city of Bellingham Diversion Dam	Submit Application	–	–
Middle Fork Nooksack River (01.0339) – Upstream of city of Bellingham Diversion Dam	Submit Application	–	–
North Fork Nooksack River (01.0120) – Mouth to Nooksack Falls	Submit Application	–	–
North Fork Nooksack River (01.0120) – Upstream of Nooksack Falls	Submit Application	–	–

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Barometer Creek (01.0513)	July 16 - February 28	X	-
Ruth Creek (01.0531)	July 16 - February 28	X	-
Swamp Creek (01.0518)	July 16 - February 28	X	-
Wells Creek (02.0057)	Submit Application	-	-
Bar Creek (01.0500)	July 16 - February 28	X	-
South Fork Nooksack (01.0246) - Mouth to Wanlick Creek	Submit Application	-	-
South Fork Nooksack (01.0246) - Upstream of Wanlick Creek	Submit Application	-	-
Samish River (03.0005)	July 16 - August 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-
Baker River (04.0435) - Mouth to Baker Lake Dam (04.0435)	Submit Application	-	-
Baker River (04.0435) - Baker Lake to National Park boundary	Submit Application	-	-
Boulder Creek (04.0499)	July 16 - February 28	X	-
Park Creek (04.0506) - Mouth to fish passage barrier at river mile 1.6	Submit Application	-	-
Park Creek (04.0506) - Upstream of river mile 1.6	July 16 - February 28	X	-
Swift Creek (04.0509) - Mouth to Rainbow Creek	Submit Application	-	-
Swift Creek (04.0509) - Upstream of Rainbow Creek	July 16 - February 28	X	-
Ross Lake tributaries (03.0176/04.0176)	Submit Application	-	-
Ruby Creek (04.2199)	Submit Application	-	-
Canyon Creek (04.2458) - Mouth to Barron Creek	Submit Application	-	-
Canyon Creek (04.2458) - Upstream of Barron Creek and tributaries	October 1 - February 28	X	-
Barron Creek (04.2591)	October 1 - February 28	X	-
Boulder Creek (04.2478) - Mouth to 300 feet upstream	Submit Application	-	-
Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Friday Creek (04.2549) - Mouth to 300 feet upstream	Submit Application	-	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Holmes Creek (04.2473) - Mouth to 300 feet upstream	Submit Application	-	-
Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Mill Creek (04.2504) - Mouth to 300 feet upstream	Submit Application	-	-
Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Nickol Creek (04.2476) - Mouth to 300 feet upstream	Submit Application	-	-
Nickol Creek (04.2476) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Mouth to Elk Creek	Submit Application	-	-
Cascade Creek (05.2584)	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Upstream of Elk Creek	October 1 - February 28	X	-
Slate Creek (04.2557) - Mouth to falls at river mile 0.6	Submit Application	-	-
Slate Creek (04.2557) - Upstream of falls at river mile 0.6	October 1 - February 28	X	-
Granite Creek (04.2313) - Mouth to East Creek	Submit Application	-	-
Granite Creek (04.2313) - Upstream of East Creek and tributaries	October 1 - February 28	X	-
Saar Creek (00.0003)	August 1 - September 30	X	-
Silesia Creek (00.0042) - Canadian border to Middle Fork	July 16 - August 15	X	-
Silesia Creek (00.0042) - Middle Fork to National Park boundary	July 16 - February 28	X	-
Rapid Creek (00.0048)	July 16 - February 28	X	-
West Fork Silesia Creek (00.0044)	July 16 - February 28	X	-
Winchester Creek (00.0045)	July 16 - February 28	X	-
<b>Whitman County</b>	July 16 - December 15	X	-
Snake River (35.0002)	See Below	-	-

<b>Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)</b>	<b>Suction Dredging is Allowed Only Between These Dates</b>	<b>State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Suction Dredges With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>	<b>State Waters (NOT including tributaries) in Which a Person May Use Suction Dredges With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter</b>
Alkali Flats Creek (35.0570)	July 16 – December 15	X	–
Almota Creek (35.1017)	July 16 – December 15	X	–
Little Almota Creek (35.1018)	July 16 – December 15	X	–
Palouse River (34.0003)– Mouth to Palouse Falls	July 16 – September 30	X	X
Palouse River (34.0003)– Upstream of Palouse Falls	July 16 – February 28	X	X
Penewawa Creek (35.0916)	July 16 – December 15	X	–
Wawawai Canyon Creek (35.1165)	July 16 – December 15	X	–
<b>Yakima County</b>	June 1 – September 15	X	–
Glade Creek (31.0851)	August 1 – September 30	X	–
Klickitat River (30.0002)	Submit Application	–	–
Yakima River (37.0002/38.0002/39.0002) – Mouth to Roza Dam	June 1 – September 15	X	X
Ahtanum Creek (37.1382)	June 16 – September 30	X	–
North Fork Ahtanum Creek (37.1382)	Submit Application	–	–
South Fork Ahtanum Creek (37.1382)	Submit Application	–	–
Naches River (38.0003)– Mouth to Tieton River	July 1 – October 15	X	X
Naches River (38.0003)– Upstream of mouth of Tieton River to Bumping River	July 1 – August 15	X	X
Bumping River (38.0998)	July 16 – August 15	X	X
American River (38.1000)	Submit Application	–	–
Gold Creek (38.MISC)	July 16 – February 28	X	–
Kettle Creek (38.1033)	Submit Application	–	–
Miner Creek (38.1027)	July 16 – February 28	X	–
Morse Creek (38.1072)– Mouth to SR410 crossing	August 1 – August 15	X	–
Morse Creek (38.1072)– Upstream of SR410 crossing	August 1 – February 28	X	–
Rock Creek (38.MISC)	July 16 – February 28	X	–
Timber Creek (38.1062)	August 1 – August 15	X	–
Union Creek (38.1045)– Upstream of 500 feet above falls	August 1 – February 28	X	–

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Union Creek (38.1045)- Mouth to 500 feet above falls	Submit Application	-	-
Other American River tributaries not listed	August 1 - February 28	X	-
Deep Creek (38.MISC)	Submit Application	-	-
Copper Creek (38.MISC)	August 1 - August 15	X	-
Cowiehe Creek (38.0005)- Mouth to South Fork Cowiehe Creek	July 1 - September 30	X	-
North Fork Cowiehe Creek (38.0008)	July 1 - February 28	X	-
South Fork Cowiehe Creek (38.0031) - Mouth to Reynolds Creek	July 1 - September 30	X	-
South Fork Cowiehe Creek (38.0031) - Upstream of Reynolds Creek	July 16 - October 31	X	-
Granite Creek (38.MISC)	August 1 - August 15	X	-
Little Naches River (38.0852) - Mouth to Matthews Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthews Creek	July 16 - August 15	X	-
Crow Creek (38.0858)	July 16 - August 15	X	-
Nile Creek (38.0692)	July 16 - October 15	X	-
Rattlesnake Creek (38.0518)	July 16 - August 15	X	-
Tieton River (38.0166)- Mouth to Rimrock Dam	July 1 - August 31	X	X
North Fork Tieton River (38.0291) - Below Clear Lake Dam	Submit Application	-	-
North Fork Tieton River (38.0291) - Upstream of Clear Lake	July 1 - August 15	X	-
Clear Creek (38.0317)	July 16 - February 28	X	-
South Fork Tieton River (38.0374) - Below South Fork Falls	Submit Application	-	-
South Fork Tieton River (38.0374) - Upstream of South Fork Falls	July 16 - February 28	X	-
Indian Creek (38.0302)	Submit Application	-	-
Tributaries of Tieton River below Rimrock Dam	July 16 - February 28	X	-
Umtanum Creek (39.0553)	July 16 - September 30	X	-

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Wenas Creek (39.0032)	July 16 – October 15	X	–
Other Yakima River tributaries	July 16 – August 31	X	–
Columbia River	–	–	–
Mouth to the I-205 Bridge	August 1 – March 31	X	X
I-205 Bridge to Bonneville Dam	July 16 – September 15	X	X
Bonneville Dam to Snake River	July 16 – February 28	X	X
Snake River to Priest Rapids Dam	July 16 – September 30	X	X
Priest Rapids Dam to Mouth of Crab Creek	July 16 – February 28	X	X
Mouth of Crab Creek to Wanapum Dam	July 16 – September 30	X	X
Wanapum Dam to the SR 285 bridge in South Wenatchee	July 16 – February 28	X	X
SR 285 bridge in South Wenatchee to the SR 2 bridge	July 16 – September 30	X	X
SR 2 bridge to one mile downstream of the Chelan River	July 16 – February 28	X	X
From one mile downstream of the Chelan River to the SR 97 bridge	July 16 – September 30	X	X
From SR 97 bridge to Chief Joseph Dam	July 16 – February 28	X	X
Chief Joseph Dam to Grand Coulee Dam	June 16 – March 31	X	X
Grand Coulee Dam to Canadian border	Submit Application	–	–
All Columbia River tributaries	See County Listings	–	–
Snake River	–	X	–
Mouth to Ice Harbor Dam	July 16 – September 30	X	X
Ice Harbor Dam to Mouth of Clearwater River	July 16 – March 31	X	X
Mouth of Clearwater River to state line	August 1 – August 31	X	X
All Snake River tributaries	See County Listings	–	–
Lakes	Submit Application	–	–
Strait of Juan de Fuca, Puget Sound, Hood Canal	Submit Application	–	–



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Ocean beaches within the Seashore Conservation Area established under RCW 79A.05.605	January 1 – December 31	X	X
All waters within Indian tribal reservation, National Park, state park, or wilderness boundaries, except those within the Seashore Conservation Area established under RCW 79A.05.605	Submit Application	-	-

~~(8) Suction dredge activity reporting. By February 1st of each year, a person issued a suction dredge HPA must report to the department regarding the date, amount, type, and location of any suction dredging activity conducted during the preceding calendar year for which the HPA is in effect.))~~



Washington  
Department of  
**FISH and  
WILDLIFE**

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## **Implementation Plan**

### **Hydraulic Code Rules Chapter 220-660 WAC**

### **Incorporating Elements of ESHB 1261 into HPA Rules**

WAC 220-660-030 Definitions

WAC 220-660-050 Procedures

WAC 220-660-300 Mineral Prospecting

WAC 220-660-305 Suction Dredging [Renamed]

Washington Department of Fish and Wildlife  
Habitat Program  
Protection Division  
Olympia, Washington

April 2, 2021

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***Mission***  
*of the*  
*Washington Department of Fish and Wildlife*

*To preserve, protect and perpetuate fish, wildlife, and ecosystems  
while providing sustainable fish and wildlife  
recreational and commercial opportunities.*

Persons with disabilities who need to receive this information in an alternative format or who need reasonable accommodations to participate in WDFW-sponsored public meetings or other activities may contact Dolores Noyes by phone (360-902-2349), TTY (360-902-2207), or by email at [dolores.noyes@dfw.wa.gov](mailto:dolores.noyes@dfw.wa.gov) . For more information, see [http://wdfw.wa.gov/accessibility/reasonable\\_request.html](http://wdfw.wa.gov/accessibility/reasonable_request.html).

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## Purpose

The Washington Department of Fish and Wildlife (WDFW) proposed changes to Chapter 220-660 WAC – Hydraulic Code Rules. We are providing this implementation plan to meet department and Administrative Procedure Act requirements (RCW 34.05.328) related to rule adoption.

## Introduction

On April 9, 2021, the Fish and Wildlife Commission will adopt the proposed changes to Chapter 220-660 WAC - Hydraulic Code Rules. These changes are necessary to implement elements of ESHB 1261 - a bill passed by the legislature during the 2020 legislative session. Bill sections 1 and 2 amended Chapter 90.48 RCW – Water Pollution Control. These sections are not the subject of this rule making. Sections 3 and 4 of ESHB 1261 amended Chapter 77.55 RCW – Construction Projects in State Waters. Section 3 made changes to definitions. Section 4 added a new requirement for a complete a Hydraulic Project Approval (HPA) application. This requirement states “In the event that any person or government agency desires to undertake mineral prospecting or mining using motorized or gravity siphon equipment or desires to discharge effluent from such an activity to waters of the state, the person or government agency must also provide proof of compliance with the requirements of the federal clean water act issued by the department of ecology.”

The purpose of this rule implementation plan is to inform the public how WDFW intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance of the rule.
- Evaluate the rule.
- Train and inform department staff and interested stakeholders about the amended rule.

Also included in this plan is information about:

- Supporting documentation that may need to be written or revised because of the amended rule.
- Other resources where more information about the rule is available.
- Contact information for a department employee who can answer questions about the rule implementation.

## Implementation and Enforcement

WDFW will implement the amended Hydraulic Code Rules on the date they become effective. Regulatory Services Section staff will implement the procedural changes and biologists will include the technical provisions that reflect the amendments to the Hydraulic Code Rules in

new permits they issue or revise. The new requirement for proof of compliance with the Clean Water Act (CWA) will be confirmed before a permit is processed, and is therefore not subject to violation.

Since hydraulic code laws and regulations are complicated, WDFW has a responsibility to help the regulated community understand how to comply. We use a range of tools as our roles move from educator to enforcer. WDFW will improve compliance with the Hydraulic Code Rules through increased public education, technical assistance, and inspections. A new Compliance Division is under development at WDFW, and it will play a role once it is functioning. Biologists typically have first contact with miners and will work with them to prevent non-compliance. When voluntary compliance is not successful, Compliance Division staff will seek authorization from management to take appropriate administrative enforcement. The department will employ a continuum of increasingly stringent enforcement tools as our role moves from technical assistance to enforcer. This continuum runs from correction requests advising people of areas of noncompliance, to administrative enforcement actions and, when appropriate, criminal prosecution.

## **Informing and Educating Persons Affected by the Rule**

WDFW communicated with the public, other natural resource agencies and tribes during rulemaking. The codified rule incorporating all revisions will be posted on WDFW rules webpage when the revised rule is published by the Office of the Code Reviser. WDFW will inform affected persons about the Hydraulic Code Rule changes by the following methods:

- Washington State Register
- News Release
- Agency Website
- Direct email to interested tribes, agencies and stakeholders.

WDFW will also update the “Rules for mineral prospecting and placer mining” webpage. The update will include:

- An overview of the rule changes
- Information about how to apply for a standard HPA
- An updated Gold and Fish Pamphlet

The department’s habitat biologists and frontline staff will continue to provide technical assistance and answer questions.

## **Promoting and Assisting Voluntary Compliance**

WDFW will continue to work with stakeholders to encourage voluntary compliance with the rule. The main requirement of the new rule, providing proof of compliance with the CWA, is a mandatory step in applying for an HPA. No HPA will be issued without it. WDFW will assist applicants as necessary to find information about CWA permitting and how to contact the Washington Department of Ecology. Voluntary compliance will primarily apply to the aquatic

invasive species prevention measure. The measure will appear as a provision in HPA permits issued for prospecting involving motorized or gravity siphon equipment. WDFW has an established technical assistance program that promotes and assists with voluntary compliance with the Hydraulic Code Rules. The new Compliance Division will also assist with promoting voluntary compliance once the division is fully developed and functioning.

## **Evaluating the Rule**

The purpose of the rule is to implement ESHB 1261 by requiring standard HPA permits for all mineral prospecting involving motorized or gravity siphon equipment. This provides a nexus for applicants to submit their proof of compliance with the CWA. Previously, some of these aquatic mining activities were authorized in the in the Gold and Fish pamphlet and did not require an application process. WDFW will conduct internal monitoring to ensure that HPA applications for mineral prospecting are processed in accordance with the Hydraulic Code Rules. We will also continue to interact with the regulated community and gather feedback about the permit application process so that we can make adjustments as necessary to promote compliance.

## **Training and Informing WDFW Staff**

Rulemaking requires outreach to the department's habitat biologists, administration, enforcement staff and others involved with Hydraulic Project Approvals. This will be done through meetings, email communication, written guidance, and one-on-one communication. Details of the statute (Chapter 77.55 RCW) and rules (Chapter 220-660 WAC) will be updated in HPA training materials for staff. Training will mainly focus on changes to the permit process.

### ***Implementation Actions:***

- Identify and engage employees who interact with the regulated community as part of their daily work.
- Brief frontline employees about the rule amendments and available resources, and give them educational resources to share with applicants.
- Train the administrative staff to evaluate mineral prospecting HPA applications for CWA compliance as part of the statutory completeness review.

## **List of Supporting Documents that May Need to be Revised**

Documents that may need to be revised or updated include:

- Gold and Fish Pamphlet: Rules for Mineral Prospecting and Placer Mining
- HPA Manual
- Regulatory Services Section Desk Manuals

## **For Further Information:**

For more information about the Hydraulic Code Rule amendments see:  
<https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>

For more information about Hydraulic Project Approvals see:  
<https://wdfw.wa.gov/licensing/hpa/>

For HPA application assistance see:  
<https://wdfw.wa.gov/licenses/environmental/hpa/application>

To talk with a habitat biologist see:  
<https://wdfw.maps.arcgis.com/apps/MapJournal/index.html?appid=48699252565749d1b7e16b3e34422271>

For more information about HPA rule implementation, contact:

Theresa Nation  
Protection Division, Environmental Planner  
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[Theresa.nation@dfw.wa.gov](mailto:Theresa.nation@dfw.wa.gov)





Washington  
Department of  
**FISH and  
WILDLIFE**

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## **Hydraulic Code Rules Chapter 220-660 WAC**

### **Incorporating Elements of ESHB 1261 into HPA Rules**

WAC 220-660-030 Definitions

WAC 220-660-050 Procedures

WAC 220-660-300 Mineral Prospecting

WAC 220-660-305 Suction Dredging [Renamed]

### **Regulatory Analysis**

Incorporating:

**Cost-Benefit Analysis**

**Least Burdensome Alternatives Analysis**

**Administrative Procedure Act Determinations**

Washington Department of Fish and Wildlife  
Habitat Program  
Protection Division  
Olympia, Washington

April 2, 2021

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***Mission***  
***of the***  
***Washington Department of Fish and Wildlife***

*To preserve, protect and perpetuate fish, wildlife, and ecosystems  
while providing sustainable fish and wildlife  
recreational and commercial opportunities.*

Persons with disabilities who need to receive this information in an alternative format or who need reasonable accommodations to participate in WDFW-sponsored public meetings or other activities may contact Dolores Noyes by phone (360-902-2349), TDD (360-902-2207), or by email at [dolores.noyes@dfw.wa.gov](mailto:dolores.noyes@dfw.wa.gov) . For more information, see [http://wdfw.wa.gov/accessibility/reasonable\\_request.html](http://wdfw.wa.gov/accessibility/reasonable_request.html).

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## SECTION 1: INTRODUCTION

The state Legislature gave the Washington Department of Fish and Wildlife (department) the responsibility to preserve, protect, and perpetuate all fish and shellfish resources of the state. To help achieve this mandate, the Legislature passed a state law in 1943 called “Protection of Fish Life.” Now titled “Construction Projects in State Waters” and codified as Chapter 77.55 Revised Code of Washington (RCW), the entire text of the statute can be found at:

<http://app.leg.wa.gov/RCW/default.aspx?cite=77.55> .

Under the authority of Chapter 77.55 RCW, the department issues a construction permit called a Hydraulic Project Approval (HPA). The sole purpose of the HPA is to protect fish life from construction and other work that uses, diverts, obstructs, or changes the natural flow or bed of state waters. HPAs are site-specific, meaning that provisions are tailored to the site conditions and fish species that might be affected by each project. The HPA contains provisions that a permittee must follow in order to mitigate<sup>1</sup> impacts to fish life caused by the project.

The department adopts rules to implement Chapter 77.55 RCW under Chapter 220-660 Washington Administrative Code (WAC) - *Hydraulic Code Rules*. This WAC Chapter establishes regulations for administration of the HPA program. The Hydraulic Code Rules set forth definitions, administrative procedures for obtaining an HPA, steps for HPA appeals and civil compliance, and criteria generally used by the department to review and condition hydraulic projects to protect fish life.

This report presents Washington Department of Fish and Wildlife (department) analyses and determinations pursuant to Chapter 34.05 RCW - Administrative Procedure Act (APA), and Chapter 19.85 RCW - Regulatory Fairness Act (RFA), for proposed amendments to Hydraulic Code Rules in Chapter 220-660 WAC. This document is organized as follows:

SECTION 1: Introduction

SECTION 2: Describe the proposed rule and its history

SECTION 3: Significant Legislative Rule Analysis Required

SECTION 4: Goals and Objectives of the Statute that the Rule Implements

SECTION 5: How the Rule Meets the Objectives of the Statute

SECTION 6: Involving stakeholders in rule development

SECTION 7: Cost-Benefit Analysis

SECTION 8: Least Burdensome Alternative

SECTION 9: Remaining APA Determinations

SECTION 10: Sources of Information Used

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<sup>1</sup> “Mitigation” is defined in WAC 220-660-030(100) to mean sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.

Documents relating to this rule making activity are available on the department’s HPA rule making web page at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

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## **SECTION 2: Describe the proposed rule and its history**

Rule amendments are proposed as necessary to implement elements of Engrossed Substitute House Bill 1261 (ESHB 1261)<sup>2</sup> - a bill passed by the legislature during the 2020 legislative session. Bill sections 1 and 2 amended Chapter 90.48 RCW – Water Pollution Control. Section 1 requires that persons wishing to conduct motorized or gravity siphon aquatic mining must acquire a National Pollution Discharge Elimination System (NPDES) water quality permit from the Washington Department of Ecology (Ecology) if they will discharge any water to waters of the state. Ecology issues NPDES permits using their authority under the federal Clean Water Act. Section 2 prohibits motorized or gravity siphon aquatic mining or discharge of effluent from such an activity to any waters of the state that have been designated under the Endangered Species Act (ESA) as critical habitat, or that would impact critical habitat for salmon, steelhead, or bull trout. This prohibition includes fresh waters with the designated uses of salmonid spawning, rearing, and migration.

Sections 3 and 4 of ESHB 1261 also amended Chapter 77.55 RCW – Construction Projects in State Waters. Section 3 amended the definition of “small scale prospecting and mining” and added a new definition for “motorized or gravity siphon aquatic mining”. Section 4 added a new requirement for a complete a Hydraulic Project Approval (HPA) application. This requirement states “In the event that any person or government agency desires to undertake mineral prospecting or mining using motorized or gravity siphon equipment or desires to discharge effluent from such an activity to waters of the state, the person or government agency must also provide proof of compliance with the requirements of the federal clean water act issued by the department of ecology.”

### **2.1 Specific Objectives for this Rule Making**

In order to implement elements in sections 3 and 4 of ESHB 1261, the department’s objectives in this rule making include the following:

- ✓ Add definitions for “gravity siphon aquatic mining” and “motorized or gravity siphon equipment”;
- ✓ Specify that a standard HPA permit is required to conduct mineral prospecting involving motorized or gravity siphon equipment and require proof of compliance with the federal Clean Water Act for this activity as part of a complete application for a standard HPA;
- ✓ Specify that WDFW may reject an application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations occur where the Ecology prohibits those activities under RCW 90.48.615; and

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<sup>2</sup> Laws of 2020, Chapter 10; Codified in RCWs 77.55.011 and 77.55.021

- ✓ Remove authorization for motorized mineral prospecting activities from the Gold and Fish pamphlet rules.

In addition, the proposal specifies that all activities under WAC 200-660-305 (Mineral prospecting involving motorized or gravity siphon equipment) must employ aquatic invasive species prevention.

## 2.2 Describe the proposed rule

Table 1 presents the proposed SSHB 1261 Rule Change Proposals (Proposals). The table presents changes listed in sequential order by change number and WAC subsection number.

**Table 1 WDFW 2020 ESHB 1261 Rule Change Proposals presented by section and subsection number**

Change #	WAC Subsection	Description
<b>WAC 220-660-030 Definitions</b>		
1	220-660-030(29)	Removes “or water pressure” from the definition of crevicing. The use of pressurized water would be a discharge.
2	220-660-030(55)	Amends the definition of “Fish guard” by changing “pumping” to “removing” and removing “pump” before the word intake. This change accounts for gravity or siphon intakes that don’t use a pump but still need a fish guard.
3	220-660-030(68)	Adds a new definition for “Gravity siphon aquatic mining”.
4	220-660-030(72)(a)	Amends the “Hand-held mineral prospecting tools” definition to include only non-motorized hand-held tools.
5	220-660-030(78)(a)(i)	Clarification made by removing the phrase “and other minor hydraulic project activities for”.
6	220-660-030(105)	Adds a new definition for “Motorized or gravity siphon equipment”.
7	220-660-030(149)	Removes the definition of “Vac-pac” because the term is no longer used.
<b>WAC 220-660-050 Procedures – Hydraulic project approvals</b>		
8	220-660-050(9)(c)(iii)(H)	Specifies proof of compliance with the federal Clean Water Act must be included in a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment.
9	220-660-050(9)(c)(iii)(I)	This existing language was moved from 220-660-305(3)(b).
10	220-660-050(9)(c)(iv)(A)	Clarifies how to apply for a motorized or gravity siphon aquatic mining HPA.
11	220-660-050(9)(c)(iv)(D)	Clarifies normal business hours.

Change #	WAC Subsection	Description
12	220-660-050(10)(d)	Specifies the department may reject a standard application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations occur in an area that is prohibited under RCW 90.48.615.
<b>WAC 220-660-300 Mineral prospecting</b>		
13	220-660-300(1)	Specifies which equipment the section applies to and does not apply to.
14	220-660-300(4)(b)	Specifies when mineral prospecting without timing restrictions, that only hand-held mineral prospecting tools, pans, sluices, non-motorized concentrators, mini rocker boxes and non-motorized mini high bankers may be used. Spiral wheels are removed from the list of authorized equipment because the discharge cannot be fully contained within the equipment.
15	220-660-300(4)(c)	Specifies that a person may use one “non-motorized” hand-operated winch.
16	220-660-300(4)(g)(i)	Spiral wheels are removed from the list of authorized equipment because the discharge cannot be fully contained within the equipment.
17	220-660-300(4)(g)(viii)	Specifies “nonmotorized” mini high-bankers. Specifies that water may only be supplied to mini high-bankers or concentrators from natural stream flow or hand-held containers, not by a gravity siphon.
18	220-660-300(4)(g)(ix)	Removes the screening requirement because motorized pumps are no longer authorized in WAC 220-660-300.
19	220-660-300(4)(g)(xii)	Removes fuel rules because motorized equipment is no longer authorized in WAC 220-660-300.
20	220-660-300(5)(a)	Removes the phrase “and with the mineral prospecting equipment limitations” for clarification.
21	220-660-300(5)(b)	Specifies when mineral prospecting with timing restrictions, that only “non-motorized” hand-held mineral prospecting tools and pans, sluices, “non-motorized” concentrators, rocker boxes and “non-motorized” high bankers may be used. Spiral wheels are removed from the list of authorized equipment because the discharge cannot be fully contained within the equipment. Other motorized equipment is removed.
22	220-660-300(5)(d)	Removes reference to motorized equipment because it is no longer authorized in WAC 220-660-300. Specifies a person may use one “non-motorized” hand-operated winch.
23	220-660-300(5)(e)(i)	Removes spiral wheels from the list of authorized equipment and specifies “nonmotorized” mini high-bankers.

<b>Change #</b>	<b>WAC Subsection</b>	<b>Description</b>
24	220-660-300(5)(e)(ii)	Removes reference to motorized equipment because it is no longer authorized in WAC 220-660-300. Specifies equipment separation from others operating “mineral prospecting equipment”.
25	220-660-300(5)(e)(iii)	Removes reference to motorized equipment because it is no longer authorized in WAC 220-660-300. Specifies equipment separation from others operating “mineral prospecting equipment”.
26	220-660-300(5)(g)	Removes the screening requirement because motorized pumps are no longer authorized in WAC 220-660-300.
27	220-660-300(5)(h)	Removes fuel rules because motorized equipment is no longer authorized in WAC 220-660-300.
28	220-660-300(5)(p)	Removes spiral wheels from the list of authorized equipment and specifies “nonmotorized” mini high-bankers and “non-motorized” concentrators. Removes reference to motorized equipment.
29	220-660-300(5)(q)	Removes spiral wheels from the list of authorized equipment and specifies “nonmotorized” mini high-bankers and “non-motorized” concentrators. Removes reference to motorized equipment.
30	220-660-300(5)(u)	Removes authorization for crevicing or redistributing dredge tailing because this activity uses motorized equipment that discharges to surface and ground water.
31	220-660-300(5)(v)	Removes authorization for crevicing in the wetted perimeter, frequent scour zone or landward of the frequent scour zone because this activity discharges to surface and ground water.
30	220-660-300(6)(d)	Specifies “non-motorized” hand-held mineral prospecting tools and “non-motorized” mineral prospecting equipment. Removes spiral wheels from the list of authorized equipment because this is motorized equipment that discharges to surface and ground water. Removes authorizations for motorized equipment.
31	220-660-300(6)(f)	Specifies that water may only be supplied to a high-bankers or concentrator from natural stream flow or hand-held containers, not by a gravity siphon.
32	220-660-300(6)(g)	Specifies a person may use one “non-motorized” hand-operated winch.
33	220-660-300(6)(h)	Removes the screening requirement because motorized pumps are no longer authorized in WAC 220-660-300.
34	220-660-300(6)(i)	Removes fuel rules because motorized equipment is no longer authorized in WAC 220-660-300.

Change #	WAC Subsection	Description
35	220-660-300(6)(p)	Removes authorization for crevicing or redistributing dredge tailing because this activity uses motorized equipment that discharges to surface and ground water.
<b>WAC 220-660-305 Suction dredging (renamed “Mineral prospecting involving motorized or gravity siphon equipment”)</b>		
36	220-660-305	Change section title from “Suction dredging” to “Mineral prospecting involving motorized or gravity siphon equipment”.
37	220-660-305(1)	Broadens the description to include mineral prospecting involving motorized and gravity siphon equipment.
38	220-660-305(2)	Broaden general fish life concerns to include those common to mineral prospecting involving motorized and gravity siphon equipment.
39	220-660-305(3)(a)	Change “suction dredging activity” to “mineral prospecting involving motorized and gravity siphon equipment”.
40	220-660-305(3)(b)	This language is moved to 220-660-050(9)(c)(iii)(l) and replaced with “The department will determine the authorized work time for mineral prospecting activities involving motorized or gravity siphon equipment per section 110 in this chapter”.
41	220-660-305(4)(a)	Change “suction dredge” to “motorized or gravity siphon” equipment.
42	220-660-305(4)(b)	Change “suction dredge” to “motorized or gravity siphon” equipment.
43	220-660-305(5)	Change “Suction dredging” to “mineral prospecting involving motorized or gravity siphon equipment”. Eliminate “in fresh waters” because this subsection would also apply to salt waters of the state. Many of the changes to this subsection of are the movement of rules coming from 220-660-300.
44	220-660-305(5)(a)	Change “suction dredge” to “operate motorized or gravity siphon equipment”. Eliminate “fresh” because this subsection would also apply to salt waters of the state.
45	220-660-305(5)(b)	“Suction dredging” is changed to “mining using motorized or gravity siphon equipment”. The list of equipment is expanded to include pans, spiral wheels, concentrators and high-bankers, gravity siphons, suction dredges, power sluice/suction dredge combinations, high-bankers and power sluices.



<b>Change #</b>	<b>WAC Subsection</b>	<b>Description</b>
46	220-660-305(5)(c)	Indicates that Ecology determines the locations where motorized or gravity siphon equipment may be used. Refers readers to Ecology's Water Quality program for more information. The language regarding the authorized nozzle diameters is moved to 305(5)(d).
47	220-660-305(5)(d)	The language regarding the authorized nozzle diameters is moved from 305(5)(c) and reference to subsection 5 is added.
48	220-660-305(5)(f)	Specifies a person may use one "non-motorized" hand-operated winch.
49	220-220-305(5)(g)	This subsection is broadened to include equipment separation requirements for high-bankers and other motorized and gravity siphon aquatic mining equipment.
50	220-660-305(5)(h)	Changes "pumping" to "removing" and removes "pump" to clarify a fish guard is also required on gravity or siphon intakes that don't use a pump.
51	220-660-305(5)(o)	Specifies a person may work in only one excavation site at a time. However, they may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.
52	220-660-305(5)(q)	Specifies a person may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or has the potential to deliver, sediment to the wetted perimeter or frequent scour zone.
53	220-660-305(5)(r)	Clarifies that a person can use natural or artificial materials to partially divert a body of water provided the diversion is constructed by hand. Specifies that before abandoning the site, a person must remove artificial materials used in the construction of a diversion structure and restore the site to its approximate original condition.
54	220-660-305(5)(s)	Specifies the conditions under which a person can process aggregate collected from the frequent scour zone.
55	220-660-305(5)(t)	Specifies the conditions under which a person can process aggregate collected from upland areas landward of the frequent scour zone.
56	220-660-305(5)(v)	Authorizes crevicing in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing must not have an inside diameter larger than ¾-inch. If a person crevices landward of the frequent scour zone, a person may not discharge sediment or wastewater to the wetted perimeter or the frequent scour zone.

Change #	WAC Subsection	Description
57	220-660-305(6)	Change “Suction dredging on ocean beaches” to “Mineral prospecting involving motorized or gravity siphon equipment”.
58	220-660-305(6)(a)	Changes “suction dredge” to “operate”.
59	220-660-305(6)(b)	Changes “suction dredging” to “operating motorized or gravity siphon equipment”. Removes list of authorized equipment and instead refers to subsection 5(b) to reduce repeated language.
60	220-660-305(6)(c)	Specifies motorized types of mineral prospecting equipment listed in the previous provision may be used ONLY in waters in Grays Harbor, and Pacific counties that are NOT designated under the Endangered Species Act as critical habitat for salmon, steelhead, or bull trout or have a freshwater designated use of salmonid spawning, rearing, and migration.
61	220-660-305(6)(d)	Specifies a person may use one “non-motorized” hand-operated winch.
62	220-660-305(6)(e)	Removes reference to RCW 77.57.010 and 77.57.070. Changes “pumping” to “removing” and removes “pump” to clarify a fish guard is also required on gravity or siphon intakes that don’t use a pump.
63	220-660-305(6)(g)	Removes language that doesn’t apply to ocean beaches.
64	220-660-305(6)(i)	Removes language that doesn’t apply to ocean beaches.
65	220-660-304(6)(j)	Removes language that doesn’t apply to ocean beaches.
66	220-660-305(7)	The Authorized Work Times table is removed and replaced by 220-660-305(3)(b). Most of the locations in the table are now prohibited for motorized or gravity siphon equipment that discharges to waters of the state.
67	220-660-305(8)	The suction dredge activity reporting requirement is removed. Collecting effort data is no longer necessary due to the extensive prohibitions that were enacted under ESHB 1261.

### 2.3 History of this Rule Making Action

May 29, 2020	WDFW commenced rule making by filing a CR-101 Preproposal Statement of Inquiry with the Washington State Code Reviser
June 11, 2020	ESHB 1261 went into effect
Dec. 2, 2020	WDFW filed CR-102 with the Washington State Code Reviser for rule making implementing ESHB 1216
Dec. 16, 2020	Draft SEPA determination of nonsignificance and comment period began for SEPA #20059

Dec. 16, 2020	Rule making public comment period and SEPA comment period began. Rule making materials were posted online at <a href="https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking">https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking</a>
Jan. 29, 2021	The Washington Fish and Wildlife Commission conducted a public hearing on the rule proposals; SEPA comment period ended
Jan. 30, 2021	Rule making public comment period ended
Mar. 3, 2021	SEPA finalized. Final SEPA documents are available at <a href="https://wdfw.wa.gov/licenses/environmental/sepa/closed-final">https://wdfw.wa.gov/licenses/environmental/sepa/closed-final</a>

Refer to Section 6 relating to stakeholder outreach, which provides a timeline of outreach milestones related to this rule making activity.

### 2.3.1 History of regulating mineral prospecting

Before 1980, mineral prospecting required standard HPA permits. In 1980, Washington Departments of Fisheries and Game, which jointly administered the hydraulic code, distributed a “pamphlet” containing regulations for mineral prospecting that specified classification of streams, timing, dredge nozzle size, and sluice box size. At that time, only panning and sluicing could be conducted using the pamphlet; other activities listed in the pamphlet required standard HPAs. The agencies frequently modified and re-issued pamphlets (the agencies merged to form Department of Fish and Wildlife in 1993).

In 1997, the Washington state Legislature passed *Substitute House Bill 1565* requiring WDFW to regulate some types of mineral prospecting through the pamphlet without issuing standard HPAs. WDFW conducted rulemaking in 1998 and involved mineral prospectors and other interested parties in the development of those rules. Those rules were adopted in 1999, and the new pamphlet was issued. Another stakeholder process and rule update occurred in November 2008, resulting in another pamphlet edition in 2009.

WDFW has continued to update its prospecting rules and the Gold and Fish Pamphlet. In 2015, the entire body of hydraulic code rules was overhauled and moved into a new WAC section (chapter 220-660 WAC). Four mineral prospecting rules were consolidated into one section (WAC 220-660-300) without substantive changes, and authorized work times (work windows) were amended in some areas, requiring a pamphlet update in July 2015. In 2018, mineral prospecting rules were amended to reflect work window changes in additional water bodies, and a revised pamphlet was issued in June 2018. In 2019, the rules were amended again to remove motorized and gravity siphon suction dredging as an authorized activity in pamphlet and instead require a standard HPA for these mining methods. Other motorized prospecting activities do not require a standard HPA permit so long as the prospector follows the requirements in the pamphlet. Alternatively, when a miner wants to vary any of the Pamphlet requirements, such as equipment limits or work window timing, that person must apply for a standard HPA permit.

### 2.3.2 Crosswalk of ESHB 1261 with statute and rules

The following information provides a crosswalk from the bill as enacted (Laws of 2020, c. 290) to statute to rule (Table 2).

**Table 2: Crosswalk from ESHB 1261 section to the statute to proposed rule section and subsection**

Topic	ESHB 1261	Statute	Proposed Rule	Rule Topic
Definitions	Section 3	RCW 77.55.011	WAC 220-660-030	Definitions
Proof of compliance with Clean Water Act	Section 4	RCW 77.55.021(2)(e)	WAC 220-660-050(9)(c)(iii)(H)	Complete application package for an HPA

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### **SECTION 3: Significant Legislative Rule Analysis Required**

*RCW 34.05.328(5)(a) states, “Except as provided in (b) of this subsection, this section applies to: (i) ... the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW;...”*

Hydraulic code rules in chapter 220-660 WAC are significant legislative rules as specified in RCW 34.05.328(5)(a)(i). Analyses pursuant to RCW 34.05.328 are provided for this rule proposal.

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### **SECTION 4: Goals and Objectives of the Statute that the Rule Implements**

*RCW 34.05.328 (1)(a) states, “Clearly state in detail the general goals and specific objectives of the statute that the rule implements;”*

#### **4.1 Chapter 77.55 RCW - the Hydraulic Code - Goals and Objectives**

The state Legislature gave WDFW the responsibility to preserve, protect, and perpetuate all fish and shellfish resources of the state, and to

*“...authorize the taking of wildlife, food fish, game fish, and shellfish only at times or places, or in manners or quantities, as in the judgment of the commission does not impair the supply of these resources.” RCW 77.04.012*

The Legislature also granted the Commission very broad authority to adopt rules to protect fish life for a wide variety of activities in Washington waters:

*The commission may adopt, amend, or repeal rules: specifying the times when the taking of wildlife, fish, or shellfish is lawful or unlawful; specifying the areas and waters in which the taking and possession of wildlife, fish, or shellfish is lawful or unlawful; specifying and defining the gear, appliances, or other equipment and methods that may be used to take wildlife, fish, or shellfish, and specifying the times, places, and manner in which the equipment may be used or possessed. RCW 77.12.047.*

To help achieve the agency’s mandate, the Legislature passed a state law in 1943 called *Protection of Fish Life*, now recorded as [Chapter 77.55 RCW - Construction projects in state waters](#). The entire text of the statute can be found at: <http://app.leg.wa.gov/RCW/default.aspx?cite=77.55> .

[RCW 77.55.011](#)(11) defines a “hydraulic project” as

*“the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwater of the state.”*

[RCW 77.55.021](#)(1) states

*“...In the event that any person<sup>3</sup> or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval from the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.”*

The Legislature limited WDFW's regulatory authority: WDFW cannot unreasonably withhold or unreasonably condition the HPA [[RCW 77.55.021](#)(7)(a)], nor can WDFW impose conditions that optimize fish life:

*“Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.”* [RCW 77.55.231](#)(1)

The Hydraulic Code is intended to ensure that hydraulic projects adequately protect fish life.

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## **SECTION 5: How the Rule Meets the Objectives of the Statute**

***RCW 34.05.328 (1)(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection*** [i.e. for the statute that the rule implements], ***and analyze alternatives to rule making and the consequences of not adopting the rule;***

### **5.1 Why is the Proposed Rule Needed?**

**Rule amendments are proposed as necessary to implement elements of ESHB 1261.**

Bill section 2 amended Chapter 90.48 RCW. Section 2 prohibits motorized or gravity siphon aquatic mining or discharge of effluent from such an activity to any waters of the state that have been designated under the ESA as critical habitat, or that would impact critical habitat for salmon, steelhead, or bull trout. This prohibition includes fresh waters with the designated uses of salmonid spawning, rearing, and migration.

Sections 3 and 4 of ESHB 1261 also amended Chapter 77.55 RCW. Section 3 amended the definition of “small scale prospecting and mining” and added a new definition for “motorized or gravity siphon aquatic mining”. Section 4 added a new requirement for a complete HPA application.

WDFW proposes changes to WAC 220-660 to align it with changes to RCW implemented via ESHB 1261. Some of the changes, such as incorporating definitions and the requirement for proof of

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<sup>3</sup> A “person” is defined in WAC 220-660-030(112) as meaning “an applicant, authorized agent, permittee, or contractor. The term person includes an individual, a public or private entity, or organization.” This term is used throughout this document to refer to individuals, organizations, and businesses.

compliance with the Clean Water Act, come directly from statute. Other changes, such as removing all motorized equipment authorizations from the Gold and Fish Pamphlet (WAC 220-660-300), are not directly spelled out in statute but are necessary to administer the rules in accordance with the statute. Section 220-660-305 is being expanded from covering only suction dredging to include all activities involving motorized or gravity siphon equipment.

The only portion of the proposal that is not directly related to implementation of ESHB 1261 is found in 220-660-305(4), aquatic invasive species prevention. As with the rest of section 305, that subsection gets expanded to include all motorized or gravity siphon equipment. The change keeps the regulation of motorized or gravity siphon equipment uniform, eliminating separate treatment of certain equipment within the category.

Transport of prospecting equipment poses the risk of aquatic invasive species coming into the state. Motorized and gravity siphon equipment, much like watercraft, could also spread aquatic invasive species in-state when they move their equipment from waterbody to waterbody. Although chapter 77.135 RCW requires inspections and decontamination for aquatic invasive species, the Gold and Fish Pamphlet does not explicitly require inspections of equipment coming into the state, nor does the pamphlet include best practices to prevent the spread of aquatic invasive species in-state. Once non-native species become established in a new environment, where their natural enemies are missing, these invaders can spread rapidly. Aquatic invasive species can out-compete native species and disrupt efforts to recover naturally-reproducing salmon, steelhead, and trout stocks.

## **5.2 Alternatives to rule making?**

Following is a discussion of alternatives to rule making that we considered before filing a preproposal notice of inquiry.

### **5.2.1: Alternative 1: No action - do not adopt the new statutes into rule**

Under this alternative, WDFW does not have a nexus in rule for requiring proof of compliance with the federal Clean Water Act for mineral prospecting or mining activities that use motorized or gravity siphon equipment or that discharges effluent from such activities to waters of the state.

- The existing rules for suction dredging do require a written application, but do not require proof of compliance with the Clean Water Act in the supporting materials.
- No application is presently required for mineral prospecting involving motorized or gravity siphon equipment that is allowed under the Gold and Fish pamphlet. Therefore, there is no opportunity for individuals to provide proof of compliance with the Clean Water Act.

Without the changes, the rules would conflict with the requirements in statute. Because the legislature specifically requires persons to provide proof of compliance with the Clean Water Act as part of the HPA application process, the “no action” alternative is not a viable alternative.

### **5.2.2: Alternative 2: Adopt the new statute into rule but do not expand the aquatic invasive species prevention standard**

The aquatic invasive species prevention requirement was applied to suction dredging activities under section WAC 220-660-305(4) in 2019. Alternative 2 would leave the requirement

unchanged. Some motorized or gravity siphon aquatic equipment would not be given the same treatment as suction dredging equipment under WAC 220-660-305. This would create a double standard in rule for equipment that is otherwise regulated identically. Regardless of type, any equipment that is used in a contaminated water body poses a risk of spreading aquatic invasive species if it is moved from one water body to another.

**5.3 Consequences of not adopting the rule**

Declining to adopt the proposed rules would be inconsistent with amendments to RCW 77.55 implemented via ESHB 1261. Activities conducted under the Gold and Fish Pamphlet would continue without the statutorily required HPA application that includes proof of compliance with the Clean Water Act.

With the existing procedure rules (WAC 220-660-050) and suction dredging rules, WDFW could require the proof of compliance for standard HPA applications based on statute. People wanting to know about the department’s new requirement would need to find that information in statute, creating an additional process for them to find information. The department’s constituents would not have as much notice or opportunity to learn about the new requirement as is afforded via APA rule making procedures.

Additionally, without rules that expand aquatic invasive species standards, those requirements would be applied inconsistently across different types of motorized or gravity siphon equipment. Prospectors entering Washington from out of state would face confusion about whether inspections are needed when they enter Washington. People moving between water bodies without taking AIS precautions take the risk of introduction of aquatic invasive species into waters, increasing risk to native fish species.

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**SECTION 6 Involving stakeholders in rule development**

Because requiring applications is integral to the objectives for rule making, WDFW took advantage of opportunities to communicate the objectives of rule making to those affected, and to obtain information from affected persons about how the rules would impact them. Those events are summarized in Table 3.

WDFW also maintains a web page<sup>4</sup> with information on rule making and a way for people to track rule making progress. An email address<sup>5</sup> is available for people to submit preproposal comments and formal public comments.

**Table 3 Stakeholder contact events**

Date(s)	Person(s)	Activity
4/28/20	Fish and Wildlife Commission Habitat Committee	Habitat Program staff introduced rulemaking to be done in response to ESHB 1261

<sup>4</sup> <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>

<sup>5</sup> [HPARules@dfw.wa.gov](mailto:HPARules@dfw.wa.gov)

<b>Date(s)</b>	<b>Person(s)</b>	<b>Activity</b>
5/6/20	U.S. Forest Service and Hydraulic Code Implementation Citizens Advisory Group (HCICAG)	Habitat Program emailed the draft communication plan
5/26/20	Director	Habitat Program Director briefed the WDFW Director
6/11/20	News Release	Announcing that ESHB 1261 took effect June 11, 2020
6/18/20	Tribes	Tribal Affairs sent an email notification of rulemaking initiation, objectives, and copy of CR-101
6/19/20	Stakeholders and Agencies	Habitat Program sent an email notification of rulemaking initiation, objectives, and copy of CR-101
6/25/20	Stakeholders and Agencies	Habitat Program sent an email regarding changes to and publication of a new Gold and Fish Pamphlet
7/31/2020	Stakeholders, Agencies and prospecting HPA holders	Habitat Program sent an email providing background on the rulemaking and an invitation to participate in a survey for the SBEIS
9/28/2020 10/14/2020 10/22/2020	Prospecting businesses (names kept confidential)	Habitat Program sent emails and phone calls to collect data for the SBEIS and Regulatory Analysis (RA)
11/10/2020	HCICAG	Habitat Program distributed draft rule proposal for review
11/30/2020	HCICAG	Draft SBEIS distributed for review
12/10/2020	HCICAG	Staff presentation on the rule proposal and feedback from the advisory group
12/11/2020	Tribes	Tribal Affairs sent an email including information, the rule proposal, and the SBEIS for review
12/18/2020	Stakeholders, Agencies and individuals holding prospecting HPAs	Habitat Program distributed rule making information and notice of the comment periods for rule making and for SEPA
12/23/2020	All interested persons	Narrated Power Point slide show posted to the WDFW HPA Rule Making website providing information about this rule making effort
1/29/2021	All interested persons	The Washington Fish and Wildlife Commission hosted a public hearing
3/3/2021	Makah Tribe, Department of Ecology	Formal government to government consultation conducted to discuss implementation of ESHB 1261 and rule making



## **6.2 Surveying businesses identified with the metal ore mining industry**

When WDFW began to prepare the documents necessary to accompany rule change proposals, we considered how we might get information from miners and mining businesses about the economic impacts of the proposed rule.

WDFW developed a survey to determine the time and financial costs related to acquiring an HPA permit. The survey also attempted to identify mineral prospecting businesses, and some basic information about those businesses. We developed an extensive stakeholder list during our 2018 suction dredge rule making process. That list includes individual prospectors, clubs, businesses, nonprofit groups, government agencies, and other interested parties. We also compiled the names of those who have acquired the 174 suction dredging HPAs that have been issued in the past 5 years. Altogether, our current outreach list totals 472 names. We sent survey invitations by email to the entire outreach list on July 31, 2020. The survey was available online for three weeks. We received a total of eighty-one responses. Sixty respondents reported that they had applied for a mineral prospecting HPA in the past, while twenty reported that they had not. Those who had applied were asked about the time required and the cost to hire help for the application, as well as collecting information about any mineral prospecting businesses.

Four respondents indicated that they owned a mineral prospecting business. The business types were broken down as: three sole proprietorships and one corporation. One of these provided their business name, contact information, and Washington Universal Business Identifier (UBI). Another provided their UBI number. One provided only a North American Industry Classification System (NAICS) code (212221). The unnamed UBI number was entered into the Washington State Department of Revenue (DOR) Business Lookup Tool<sup>6</sup>. It did not turn up a valid business account. In total, we were able to obtain data from four businesses and positively identify one of them. That business volunteered to be contacted for further questions.

## **6.3 Business research**

In September 2020, WDFW did further research to identify businesses subject to the new HPA requirements. We conducted searches to find businesses with “prospecting”, “prospector”, “placer” or “gold mining” in the business name. Primary online tools were business data bases maintained by Department of Licensing, Department of Revenue, and Office of the Secretary of State<sup>7</sup>, and web searches using Google. We found forty-four businesses during the search and conducted deeper searches on eleven. The others were not primarily mineral prospecting businesses, as evidenced by names and NAICS numbers. Of the remaining eleven, four were closed according to the Department of Revenue business lookup tool. Two others were also quickly eliminated as one turned out to be a jeweler and the other a gold, silver and antiques dealer.

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<sup>6</sup> <https://secure.dor.wa.gov/gteunauth/#1>

<sup>7</sup> Note that business information from Licensing, Revenue, and Secretary of State is now available using the Revenue “Business Lookup” tool instead of the separate searches conducted in 2017.

Three of the businesses were identified as owned by the same person. WDFW was able to contact that individual's primary business by telephone. We received a response back that none of the three mining businesses were currently conducting any mining or mineral operations in Washington<sup>8</sup>. The last business could not be located online or physically. It appears to have moved to an unknown location according to an address search of the Skagit County property search website<sup>9</sup>.

In addition to seeking out individual businesses, WDFW conducted industry-level research. For more about this research, refer to the 2020 Incorporating Elements of ESHB 1261 into HPA Rules Small Business Economic Impact Statement, available at:

<https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

#### **6.4 Survey - Data results for effort and costs**

As described in section 6.2, WDFW sent out a survey to 472 contacts on our distribution list. The survey collected information about the time and cost to acquire an HPA for mineral prospecting activities. The questions were presented only to those who first responded that they had previously applied for an HPA. The values are understood to be data based on real experience rather than hypothetical estimates. The results are summarized in Table 4. The median time spent was three hours, with a maximum of sixty hours. The relatively low numbers may be explained in part by the fact that the majority (74%) used the simplified application form. The other 28% filled out either the Aquatic Protection Permitting System (APPS) online form or the Joint Aquatic Resources Permit Application (JARPA) form. The JARPA form is considerably longer than either the simplified form or the regular online form.

Seven individuals indicated that they had sought professional assistance. The cost for that assistance was reported as \$100 or less for all but one respondent. The median value was impacted by the fact that two respondents reported hiring assistance but then identified their cost as \$0. It was also impacted by an outlier data point of \$2,000. We use the median of responses (the middle value in the list of responses) for all the survey results because the data received contained outliers that would influence a standard mean or average (sum of responses divided by the number of responses).

The survey attempted to differentiate mineral prospecting businesses and their specific effort and costs. The median time reported by businesses to apply for HPAs was 1 hour, with 4 hours being the highest reported time effort. No businesses reported hiring professional assistance.

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<sup>8</sup> Maryann Rhodes (voicemail). October 14, 2020. Personal Communications.

<sup>9</sup> <https://www.skagitcounty.net/Search/Property/> accessed 10/9/2020.

**Table 4 Overall survey responses for time and financial cost to apply for an HPA**

	Median hours spent applying for an HPA	Response range for hours spent applying for an HPA	Median cost for application assistance	Response range for cost for application assistance
All responses (52)	3	0.5 to 60	\$100	\$0 to \$2,000
Business responses (4)	1	0.5 to 4	none	none

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## **SECTION 7: Cost-Benefit Analysis**

*RCW 34.05.328 (1)(d) provides, “Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;”*

### **7.1 Which rules require analysis?**

220-660-030 (Definitions): revises three definitions for clarity and adds new definitions for “gravity siphon aquatic mining” and “motorized or gravity siphon equipment” as reflected in the new statutory definitions for those terms. Changes in this section correct or clarify language without changing the effect of that language and do not create compliance requirements. This section is not discussed further in this analysis.

220-660-050 (Procedures): requires that proof of compliance with the federal Clean Water Act must be included in a standard HPA application for mineral prospecting or mining using motorized or gravity siphon equipment. The proposal also specifies that the department may reject an incomplete application for mineral prospecting or mining using such equipment if the proposed project location or locations occur where they are prohibited under RCW 90.48.

Proof of compliance with the federal Clean Water Act is differentiated in this document from the act of compliance with the Clean Water Act. The costs of relevant prohibitions and permitting under the Clean Water Act are not incorporated into this analysis under RCW 19.85 or RCW 34.05.328 because such costs are indirect and result from new legal requirements that are outside the scope of WDFW’s rulemaking authority under RCW 77.55. Proof of compliance with the Clean Water Act is a new HPA application requirement that is specifically dictated by statute in RCW 77.55.021(2)(e) and is therefore not discussed in this analysis.

HPA applications for motorized or gravity siphon mineral prospecting and mining methods which are to occur in locations where an activity is prohibited under RCW 90.48.615(2) are impossible to complete statutorily under the proof-of-compliance requirement of RCW 77.5.021(2)(e).

Department procedures for handling of these incomplete applications are internal government operations and not evaluated in this analysis.

220-660-300 (Mineral Prospecting): removes authorization for motorized or gravity siphon mineral prospecting activities from the Gold and Fish pamphlet rules. Those activities are moved to 220-660-305. Changes to this section do not create new compliance requirements and so it is not discussed further in this analysis.

220-660-305 (Suction Dredging): changes the name of this section to “Mineral prospecting involving motorized or gravity siphon equipment” and contains rules for prospecting using motorized or gravity siphon equipment. Specifically, it expands the existing requirements for suction dredging to include all prospecting with motorized or gravity siphon equipment. The reason for this requirement is to implement RCW 77.55.021(2)(e). The annual reporting requirement for suction dredging is repealed. This WAC section is the subject of this SBEIS analysis.

**Table 5 RFA exemptions to the proposed rule changes**

Section	Change	RFA exempt?	Exemption citation
030 Definitions	Multiple changes to definitions, one addition, one deletion	Y	RCW 34.05.310(4)(d) Correct or clarify language
050 Procedures	Require proof of compliance with federal Clean Water Act in HPA applications	Y	RCW 34.05.310(4)(e) Dictated by statute
050 Procedures	Allow WDFW to reject incomplete applications for prohibited locations	Y	RCW 34.05.310(4)(b) Internal government operations

## 7.2 Key variables to determine costs

Here are some of the challenges WDFW faces when estimating costs and benefits attributable to these rule changes:

- **WDFW does not know how many persons conduct mineral prospecting involving motorized or gravity siphon equipment in Washington:** Several considerations complicate the estimation of how many people will be affected by the rule proposal. See section 7.2.1 for more discussion of this matter.
- **WDFW is unsure how many persons using motorized or gravity siphon equipment are already implementing measures to prevent the spread of aquatic invasive species.** WDFW conducted a survey of suction dredgers in January 2019 that included questions about

decontamination of equipment<sup>10</sup>. Eighty-four percent of survey respondents indicated they took decontamination steps in 2018, which is prior to any such requirements in WAC 220-660. Suction dredging equipment is a subset of the equipment in the proposed rule. To avoid underestimation, we assume for this analysis that all persons using motorized or gravity siphon equipment will be implementing aquatic invasive species clean/drain/dry or decontamination procedures for the first time upon implementation of the proposed rules.

### 7.2.1 How many people?

Mineral prospecting involving motorized or gravity siphon equipment presently takes place with three permitting options. All suction dredging requires a standard HPA. The remainder of motorized and gravity siphon equipment use is covered in the Gold and Fish pamphlet rules, or under standard HPAs for those wishing to vary from the Gold and Fish pamphlet rules. Permitting data provides some insight into past levels of activity. See Table 6 for details.

**Table 6 Mineral prospecting permit data**

Permit type	Number	Timeline	Comments
Standard permits for mineral prospecting	174 active permits	April 10, 2020	These are active permits issued for work outside the Gold and Fish pamphlet rules. The permits were issued between April 2015 and April 2020. Some of these permits include prospecting with motorized or gravity siphon equipment.
Predicted suction dredging permits	570	N/A	This is the predicted number of suction dredgers needing permits as estimated for the 2019 HPA Suction Dredge Rule Making Regulatory Analysis.
Actual suction dredging permits	112 permits issued	Nov. 2019-June 2020	The suction dredging standard permit requirement went into effect Nov. 1, 2019. ESHB 1261 became effective June 11, 2020, effectively halting new permit applications.
Standard permits for mineral prospecting on ocean beaches	252 permits issued	July 2014-July 2015	Standard permits for beach prospecting were no longer mandatory after the activity was added to the Gold and Fish pamphlet in July 2015.

<sup>10</sup> Details about the survey can be found in the Small Business Economic Impact Statement for the Hydraulic Code Rules Chapter 220-660 WAC 2019 HPA Suction Dredge Rulemaking, available at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking#Final-rule>.

Some considerations must be made when looking at past permit numbers. Those standard permits for mineral prospecting can be broken into two groups: suction dredging, and other prospecting not covered in the Gold and Fish pamphlet. Suction dredging permits are identifiable in the HPA database. These permits were issued beginning when new suction dredge rules took effect Nov. 1, 2019. Permitting took place for 7 months before the ESHB 1261 went into effect on June 11, 2020, enacting extensive prohibitions and requiring an additional water quality (NPDES) permit. WDFW has not received any complete applications for suction dredging since ESHB 1261 became effective. Additionally, the passing of ESHB 1261 in March may have had a cooling effect on suction dredge permit applications between March and June because of the impending prohibitions. The short time period and influence of the new statutes make use of the suction dredging permit data problematic for projecting future numbers.

The other group (permits for prospecting not covered under the Gold and Fish pamphlet) includes a variety of equipment types. Those equipment types are often not specified on the permit application. Permits for motorized equipment cannot be distinguished from non-motorized, so this data does not capture the information we need.

Mineral prospecting conducted under the Gold and Fish pamphlet rules does not require any sort of application or notification to WDFW. No data exists on how many people use the Gold and Fish pamphlet.

Beach prospecting is one area where we may look to past permit numbers with some confidence. The most recent figure available is for July 2014 to July 2015. This is the year immediately prior to the addition of beach prospecting to the Gold and Fish pamphlet in July 2015, largely eliminating the need for standard permits. (The current rule proposal removes beach prospecting from the Gold and Fish pamphlet and reinstates standard permits.) Beach prospecting permits were typically issued to include the entire outer coast. Although the allowed area has been reduced under RCW 90.48, we will assume that the number of interested persons has not changed. If approximately 252 permits are issued annually, and a permit is good for 5 years, we can extrapolate out to a potential of 1,260 permits total. Given one permit per person<sup>11</sup>, that is 1,260 people.

The most important factor in estimating how many people are affected by the proposed rules is the fact that motorized and gravity siphon aquatic mining is now prohibited across much of the state, particularly in freshwater. The prohibition is found in statute and is outside this rulemaking process. This rule proposal will only affect activities in the remaining allowed areas. WDFW does not have a way to estimate how many people may seek to conduct this activity in the remaining freshwater areas. As of December 12, 2020, no standard mineral prospecting permits of any kind were active in those areas. Neither were we able to identify any active mining claims in those areas<sup>12</sup>. This suggests that those locations may not be considered as desirable for placer-type prospecting as other locations.

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<sup>11</sup> Since beach prospecting permits typically have included the entire outer coast, there is no need for individuals to get multiple permits to cover multiple sites.

<sup>12</sup> [www.thediggings.com](http://www.thediggings.com). Accessed Dec. 15, 2020.

The bottom line is that WDFW has very little solid information on which to base effort estimates. We used one “solid” data element – the number of beach prospecting permits- and have added half again to accommodate for freshwater prospecting. The result - 1,260 plus 630 equals 1,890 – is likely to fall on the high side given the new location prohibitions in statute, but we would prefer to land high than to risk underestimating the costs of the proposal. The reader should be aware of this. **WDFW estimates 1,890 persons will need to comply with the proposed rules.**

### **7.3 Costs to comply**

WDFW estimated the costs to comply with the proposed rules. We used the cost of hiring help for the HPA application process as reported in the survey. We also used responses for hours per permit and a cost per hour established by WDFW. Those two values were combined to estimate a cost per permit. We used a similar “hours x cost per hour” approach to estimate the cost of aquatic invasive species prevention.

Because there are no industry records of annual payroll to help us estimate costs per hour for the suction dredging and motorized prospecting industry, WDFW referenced mining labor data provided by the Bureau of Labor Statistics<sup>13</sup>. We chose the worker type we think most closely matches the work of a suction dredger - Continuous Mining Machine Operator - which earned an average hourly wage of \$28.68 for metal ore mining in 2019. We are using this figure to estimate hourly costs per individual for the time taken to comply with the proposals.

We anticipate the cost of equipment and supplies to be minimal. WDFW’s HPA applications can be completed online using a home computer with an internet connection. Computers and internet connectivity are available for free to the public at most libraries.

### **7.4 Multiple permits**

Most HPAs are issued for a 5-year period pursuant to WAC 220-660-050(14)(a). Pursuant to WAC 220-660-050(b)(ii)(A), a standard multi-site HPA can authorize work at multiple project sites if: (I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area; (II) The primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and (III) Work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

Analysis of existing mineral prospecting HPAs found that three individuals held two permits each in the past five years out of 172 total permit holders. Two of those people had multiple sites, necessitating two permits. The third was eligible for a single multi-site permit rather than two single-site permits. Given the existing rate of 1.1% (or 2 of 172) of permittees needing multiple

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<sup>13</sup> Bureau of Labor Statistics. Industries at a Glance Statistics for Metals Ore Mining NAICS 2122. Occupation: Continuous Mining Machine Operator (a worker who extracts raw materials from the ground for commercial and other uses by operating self-propelled mining machines that rip coal, metal and nonmetal ores, rock, stone, or sand from the mine face and load it onto conveyors or into shuttle cars in a continuous operation.) Downloaded September 14, 2020 from [https://www.bls.gov/oes/current/naics4\\_212200.htm#47-0000](https://www.bls.gov/oes/current/naics4_212200.htm#47-0000). Note that the machine referenced for this occupation is nothing like the motorized equipment used in Washington, but it was the closest occupation we could find for the U.S. metal ore mining industry as a whole.

permits, we have conducted our cost-to-comply analysis based on the more common condition of one permit per applicant.

## **7.5 Calculated costs to comply**

### **7.5.1 Costs to comply with the standard HPA rule**

Each person wishing to lawfully conduct activities covered in WAC 220-660-305 in Washington State will be required to obtain a standard HPA. A person is not required to apply for an HPA; however, an HPA is required if a person wishes to conduct the activity. WDFW assumes that each of those HPAs would be issued for a 5-year period as allowed under WAC 220-660-050(14)(a).

There is no application fee, so there is no cost to apply for an HPA other than the labor costs estimated below. WDFW's HPA applications can be completed online using a home computer with an internet connection. Computers and internet connectivity are available for free to the public at most libraries.

Alternatively, a person can download, print (3 pages @ \$.49 per page at Office Depot online), and fill out an application on paper using a \$2 pen, and mail it to WDFW using a \$.10 envelope and \$.55 stamp (total of \$4.12 for supplies and mailing). These costs are not necessary to comply with the proposal.

Professional services are not expected to be needed to aid a person to apply for an HPA. A person needing help with the application can get help from WDFW's HPA Regulatory Services staff during normal business hours.

If a person takes 3 hours (median survey response) to complete an HPA application, that costs \$86.04 in labor based on our estimated cost per hour. If professional assistance is required, then \$100 is added to the cost for a total of \$186.04. If each HPA is valid for 5 years, and each person needs only one HPA, then the annual cost per person to complete the application process is \$186.04 divided by 5, or \$37.21 per year.

Businesses reported taking one hour (median survey response) to complete an HPA application for a labor cost of \$28.68. No business reported hiring professional assistance, but if \$100 from the general survey responses is applied, then a business may spend a total of \$128.68. Over 5 years, the cost comes to \$25.74 per year.

In summary, we have estimated that the range of costs for an individual or small business to comply is from \$128.68 to \$186.04. Over the 5-year permit period, the range is \$25.74 to \$37.21 per year.

### **7.5.2 Costs to comply with the Aquatic Invasive Species Prevention rule**

The expansion of WAC 220-660-305, from suction dredging to all methods of mineral prospecting involving motorized and gravity siphon equipment, includes the aquatic invasive species prevention rules in WAC 220-660-305(4). The subsection specifies that all motorized and gravity siphon equipment that has been used in waters outside of Washington State must be inspected for the presence of aquatic invasive species. Further, all motorized and gravity siphon equipment used in any water of the state must be decontaminated according to department specification prior to use in a different water of the state.



“Clean-Drain-Dry” decontamination steps published on the WDFW web site can be undertaken by the average person using supplies commonly available: hot water, brushes, and household cleaning liquid<sup>14</sup>. WDFW conducted a survey of suction dredgers in January 2019 that included questions about decontamination of equipment<sup>15</sup>. They reported that cleaning and drying out their equipment is a regular activity associated with dredging because they want to ensure that all the gold collected by the equipment is recovered. Eighty-four percent of survey respondents indicated they took decontamination steps in 2018.

The proposed rules also require persons bringing motorized and gravity siphon equipment into Washington from out-of-state to have their equipment inspected for the presence of aquatic invasive species prior to using that equipment to suction dredge in Washington. Inspections for the presence of aquatic invasive species are available at major highway entry points into the state, so persons bringing equipment into Washington can arrange their entry so they are inspected as they cross the state line. Certificates of inspection are available on request at the time the inspection is completed. Inspections and certificates are provided at no cost.

If a person takes 2 hours and 30 minutes (median survey response) to comply with the proposed aquatic invasive species decontamination rule for suction dredging equipment, that costs \$71.70 in labor. Suction dredging equipment is generally larger and more complex to clean than the equipment being added under this rule making. WDFW estimates that the time required to decontaminate the simpler and smaller equipment would be somewhat less. We are using the larger value in lieu of a more specific estimate for the smaller equipment to accommodate for any uncertainty in our estimate.

### **7.5.3 Summary of Costs to Comply**

The up-front cost to acquire a permit is estimated from \$128.68 to \$186.04. The cost to comply with the aquatic invasive species rule is estimated at \$71.70 annually. The total cost to comply in the first year of a permit is the highest, including both the cost of acquiring a permit and annual cost to comply with the invasive species rule. It is estimated from \$200.38 to \$257.74. Total costs to comply per person per year spread over a 5-year permit range from \$97.44 to \$108.91.

## **7.6 Lost sales or revenues and lost jobs**

Data regarding industry revenue was unavailable. For more about our research, refer to the 2020 Incorporating Elements of ESHB 1261 into HPA Rules Small Business Economic Impact Statement, available at: <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>. WDFW conducted a phone interview with one business that was identified in the online survey. That business reported permitting complications that caused a one-month work delay at one site. The estimated value of that delay was \$2,000. The business interviewed indicated that they had no employees and that no jobs would be created or lost because of the proposed rules. Additional data on employment was also unavailable. The Washington Employment Security Department Employer

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<sup>14</sup> <https://wdfw.wa.gov/ais/youcanhelp.html>

<sup>15</sup> Details about the survey can be found in the Small Business Economic Impact Statement for the Hydraulic Code Rules Chapter 220-660 WAC 2019 HPA Suction Dredge Rulemaking, available at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking#Final-rule>.

Database tool<sup>16</sup> returned no results on companies that hire employees. The US Census Bureau 2017 Economic Census contained only masked data for annual sales, revenue and payroll. The number of employees was given as 250-499, which is also a masked value.

Based on insufficient data, WDFW was unable to estimate the number of jobs created or lost, or changes to sales and revenue, as a result of compliance with the proposed rule.

## **7.7 Other potential costs**

### **7.7.1 Costs for record storage**

Keeping records of a person's HPA applications and HPA permits could be very low cost depending upon the method used to keep the records. A typical application document is three pages long, and a typical HPA for five locations is seven pages long. A person storing 1 application, 1 HPA document, and a reporting document per year for a 5-year permit would be storing or printing up to 15 pages. A file folder can be purchased for \$.39 and copying/printing is \$.49 per page at Office Depot online. Paper copies and file storage would cost \$7.74 for five years or \$1.55 per year. Storing these documents on an electronic device such as a computer or cell phone is virtually free. Storing on a cell phone is a particularly attractive option because electronic versions of an HPA are allowed on the work site.

### **7.7.2 Other potential costs**

Other potential costs of implementing the proposed rules include loss of mining time because of the delay in receiving an HPA permit. Miners have previously expressed the concern that WDFW will not have the staff capacity to handle the processing of so many new applications and will therefore exceed the 45-day HPA processing period for many applicants. Although this is an acknowledged potential cost, we can't know if permitting delays will be a problem until applications begin to be submitted. Therefore, we did not attempt to quantify this cost.

## **7.8 Benefits of Proposals**

The primary benefit of the proposal is that the Hydraulic Code rules will be made consistent with RCW 77.55. WDFW will have updated rules for carrying out its authority under RCW 77.55. The regulated community will benefit from having a complete set of rules without confusion about additional requirements that can only be found in statute.

Expanding the aquatic invasive species prevention requirement will help further reduce the risk of spreading aquatic invasive species to and within Washington. Fewer people would be moving between water bodies without taking preventative measures. These rules are important to the protection of fish life because they raise awareness of the potential for equipment to transmit aquatic invasive species. The benefits of awareness and compliance with aquatic invasive species protections are significant at the individual level because it only takes one carrier to infest a water body. Costs of aquatic invasive species infestations on fish life and fish habitat could be devastating. The benefits of avoiding this devastation are unquantifiable.

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<sup>16</sup> <https://esd.wa.gov/find-an-employer#/>

## 7.9 Reducing costs for those who must comply

WDFW has taken steps to reduce costs to individuals and businesses:

- WDFW proposes to continue to use a simplified HPA application form, which is shorter than the Joint Aquatic Resource Permit Application form while still collecting all the information necessary to evaluate an HPA application. Use of the simplified form is an important component in reducing application costs for individuals and businesses.
- The annual reporting requirements in WAC 220-660 305(8) will be eliminated.
- The proposal allows WDFW to reject applications for prohibited locations. These applications are otherwise unable to advance beyond incomplete status and would remain in a state of limbo indefinitely. The rejection process allows applicants to receive a timely decision about the status of their applications.

WDFW has been and will continue working with miners to identify and implement actions to lessen impacts to miners.

## 7.10 Recap of costs and benefits and determination

*RCW 34.05.328 (1)(d) states, “Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented”*

Costs to comply with the proposal are summarized on Table 7.

**Table 7 Estimated costs and benefits of the proposal**

Costs Summary (discussion section)	Per person per year (whole dollars)	All 1,890 applicants per year (whole dollars)
Standard HPA (7.5.1)	\$37	\$69,930
Aquatic Invasive Species Prevention (7.5.2)	\$72	\$136,080
Written application supply costs (7.5.1)	\$4	\$7,560
Recordkeeping (7.7.1)	\$2	\$3,780
Lost revenue	See discussion in section 7.6	
<b>Total Costs</b>	<b>\$115</b>	<b>\$217,350</b>
Rule	Benefits summary	
<i>Standard HPA required</i>	Necessary to implement the statutory requirement to provide proof of compliance with the Clean Water Act	
<i>Aquatic invasive species prevention</i>	Necessary to reduce risk of spreading aquatic invasive species into and around Washington	

WDFW determines that the probable benefits of the proposed rules are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented. This is because 1) bringing the rules into alignment with statute provides a clear pathway for persons to comply with statute, and 2) because the rule proposals are intended to avoid the devastation of aquatic invasive species infestations on fish life and fish habitat.

## SECTION 8: Least Burdensome Alternative

*RCW 34.05.328 (1)(e) Determine, after considering alternative versions of the rule and the analysis required under (b) [Section 4 of this document], (c) [Notification in CR-102], and (d) [Section 6 of this document] of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection [i.e. for the statute being implemented];*

### 8.1 Introduction

In order to propose and adopt significant legislative rules, WDFW must evaluate alternative versions of the rule. Once this analysis is complete WDFW must determine that the rule proposed for adoption is the least burdensome version of the rule that will achieve the goals and objectives of the authorizing statute(s) as discussed in section 4. Alternatives to rule making are addressed in section 5.2 and consequences of not adopting the proposal are included in section 5.3.

### 8.2 Alternatives considered

Two alternatives to rule making are presented and discussed in Section 5.2 and summarized on Table 8.

The term “*least burdensome alternative*,” when used within this table and subsequently, means “*least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under Chapter 77.55 [RCW].*”

**Table 8 Least Burdensome analysis of alternative rule language**

Alternative/ Comment	Proposed Rule Change	WDFW Response	Least Burdensome Alternative
Alternative 1:	No action - do not adopt the new statutes into rule	<ul style="list-style-type: none"> <li>• Fails to adopt language needed to comply with statute change.</li> <li>• Conflicts with changes to Department of Ecology’s statute regulating motorized and gravity siphon aquatic mining.</li> </ul>	Proposed rule
Alternative 2:	Adopt the new statute into rule but do not	<ul style="list-style-type: none"> <li>• Fails to reduce the risk of introduction of aquatic invasive</li> </ul>	Proposed rule

Alternative/ Comment	Proposed Rule Change	WDFW Response	Least Burdensome Alternative
	expand the aquatic invasive species prevention standard	species on certain equipment. <ul style="list-style-type: none"> <li>Creates a double standard for equipment that is otherwise regulated identically.</li> </ul>	

### 8.3 Determination: Least Burdensome

After considering alternative versions of the rule in context with the goals and objectives of the authorizing statute, **WDFW determines that the proposed rule represents the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under chapter 77.55 RCW.**

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## SECTION 9: Remaining APA Determinations

The remaining narrative in this document addresses determinations pursuant to RCW 34.05.328(1)(f) through (1)(i) relating to state and federal laws, equal requirements for public and private applicants, and coordination with state, federal, tribal, and local entities.

### 9.1 Violation of other state or federal laws

***RCW 34.05.328 states, “(1)(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.”***

There are no provisions in the Hydraulic Code Rules requiring those to whom they apply to take an action that violates requirements of another federal or state law.

We make this determination because the HPA permit does not compel persons to take an action.

Consistent with other state authorities, the Hydraulic Code Rules regulate the time, place, and manner in which an action can occur to adequately protect fish life. The HPA also does not convey permission to use public or private property to conduct the project. Applicants must seek permission to use property from the landowner. Authorization by WDFW to conduct any hydraulic project does not exempt anyone from the requirements of other regulatory agencies or landowners. Every HPA issued in Washington carries the notice that the permit

*“...[the HPA permit] pertains only to requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW. Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.”*

Hydraulic Code rules do not supersede existing federal and state requirements.

WDFW has determined that the proposed rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

## 9.2 Equal Requirements for Public and Private

*RCW 34.05.328 (1)(g) states, “Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.”*

The hydraulic code rules generally apply equally to all HPA applicants whether public or private. Public entities are unlikely to engage in mineral prospecting, but if they did, requirements would be the same for public and private entities. **WDFW has determined that the rule does not impose more stringent performance requirements on private entities than on public entities.**

## 9.3 Difference from other state and federal rules

*RCW 34.05.328 (1)(h) states, “Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:” [(i) explicit state statute..., (ii) substantial evidence that the difference is necessary...].*

### 9.3.1 Other federal, state, or local agencies with authority to regulate this subject

WDFW has sole authority to implement the Hydraulic Code Rules (chapter 220-660 WAC) under chapter 77.55 RCW (Construction Projects in State Waters). Pursuant to 77.55.361, Department of Natural Resources has authority to carry out the requirements of the Hydraulic Code for forest practices hydraulic projects regulated under Chapter 76.09 RCW. WDFW and DNR have a process for concurrent review of such projects.

Local and state government regulations pertaining to land use and development, shoreline use, and clean water appear to have overlapping authorities, but have different fundamental purposes. Washington Department of Ecology regulates water diversions, discharges, and stormwater outfalls, features that could occur concurrently with a project that is regulated under the hydraulic code. Local governments have regulations for the location (such as under the Shoreline Management Act) and methods (building codes) for construction projects. These aspects of a construction project also can co-occur with hydraulic project requirements, but none of these other authorities either duplicates or supersedes the hydraulic code authority.

### 9.3.2 The rule differs from federal regulations or statutes applicable to the same activity

The Hydraulic Code regulates hydraulic projects for the protection of fish life. Hydraulic projects are construction projects and other work that effects the natural flow or bed of state waters. Federal protections under the Rivers and Harbors Act, Clean Water Act (U.S. Army Corps of Engineers and Washington Department of Ecology), and Endangered Species Act (U.S. Fish and Wildlife Service and National Marine Fisheries Service) may regulate hydraulic projects, however the purposes for these federal acts are very different from the state Hydraulic Code and rules.

Indeed, local, state, and federal agencies may have jurisdiction over the same project. Table 9 provides an overview of the characteristics of some aquatic permits at the federal, state, and local

levels. At each jurisdictional level, priorities and legal mandates determine the resources or interests that are protected and the extent of the protection that is applied. Mitigation requirements also vary according to the agencies' protection priorities and legal mandates. As a result, regulatory efforts may share intentions or could have entirely different animal or habitat protection objectives.

The federal Endangered Species Act (ESA) comes closest to regulating the same subject matter - the protection of fish life. But while the state hydraulic code regulates the way a project is constructed (so that the project is protective of fish life), the federal ESA regulates the "take" or kill of species listed as threatened or endangered under the Act. Federal ESA jurisdiction relates only to animals or plants listed as threatened or endangered under the Act. The state hydraulic code applies to all fish species.

The HPA fills a unique niche because it is the only permit issued solely to protect (all) fish life. The HPA may be the only permit required when all the criteria below apply:

- Hydraulic projects in streams too small to be considered a shoreline of the state (relevant to the state Shorelines Management Act) or navigable waters (relevant to Corps of Engineers permitting);
- Hydraulic projects not regulated under the Clean Water Act;
- Hydraulic projects not subject to state or federal landowner notification or permit requirements;
- Hydraulic projects exempt from state or national Environmental Policy Act review (refer to SEPA statute and rules for criteria for SEPA exemption); or
- Hydraulic projects exempt from local permits.

### **9.3.3 Determination: Difference is necessary**

Differences between state HPA authority (and the current rule proposal) and federal authorities are necessary because there are no federal laws or rule protecting all fish life from the effects of construction projects. **WDFW has determined that the rule differs from any federal regulation or statute applicable to the same activity or subject matter and that the difference is necessary to meet the objectives of the hydraulic code statute.**

## **9.4 Coordination with state, federal and local laws**

*RCW 34.05.328 (1)(i) states, "Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter."*

### **9.4.1 Coordination with state and federal agencies**

WDFW has actively engaged with the Department of Ecology since ESHB 1261 was signed into law in March 2020. Discussions particularly centered around how each agency would administer responsibilities under the new statutory language. The shorter-term conversations considered the immediate implementation of the new water quality permitting requirement and prohibitions found in statute. Further conversations covered the statutory requirement to provide proof of

compliance with the Clean Water Act when applying for an HPA for mineral prospecting involving motorized or gravity siphon equipment. Both agencies are continuing to explore ways to mutually support the new responsibilities.

WDFW has provided notification of this rule making effort to other state and federal agencies. However, we did not approach those agencies for assistance with developing the rule proposal. The scope of the proposal is limited to primarily administrative processes and does not change how mineral prospecting activities occur on the ground. Additionally, the main objective of the proposal is to align the Chapter 220-660 WAC (Hydraulic Code Rules) with changes to state laws which have already been enacted, that govern hydraulic permitting authority. We turned to internal administrative expertise to achieve this objective.

In the long term, ongoing coordination with federal, state, and local agencies occurs because, while the objectives of regulation are different, projects being reviewed under the HPA program are potentially reviewed by these other jurisdictions as well. WDFW coordinates mitigation requirements with federal agencies so that mitigation required for construction project impacts can satisfy mitigation required for impacts to other authorities; this coordination prevents imposing double the mitigation for the same project impact.

WDFW also solicits input from federal, state, and local agencies on ways to improve HPA program implementation, including both the regulation of projects and with the technical assistance that WDFW provides to other agencies and to project proponents.



**Table 9 Comparison of some common aquatic permits**

<b>Permit</b>	<b>Agency</b>	<b>Purpose</b>	<b>Trigger activity</b>	<b>Action</b>	<b>Limitations</b>
Hydraulic Project Approval	WDFW	Protect fish/shellfish and their habitats	Projects that use, divert, obstruct, or change the natural flow or bed of salt or fresh state waters.	Construction permit issued with conditions that mitigate impacts	May not optimize conditions for fish or unreasonably restrict a project.
ESA Incidental Take Permit	USFWS, NMFS	Ensure activities are not likely to jeopardize the continued existence of listed species, or destroy or adversely modify their critical habitat	Anyone whose otherwise-lawful activities will result in the “incidental take” of a listed species needs an incidental take permit.	Incidental take permit and terms and conditions	Applies only to ESA-listed species; “take” includes harm to designated critical habitat
Shoreline Substantial Development Permit	Local governments, Ecology	Encourages water-dependent uses, protects shoreline natural resources, and promotes public access.	Any project, permanent or temporary, which interferes with public use of shorelands. Projects in or within 200 feet of marine waters, streams, lakes, and associated wetlands and floodplains.	Development permit issued by local government	Conditional Use and Variance require review by Ecology.
NPDES construction stormwater or general permit	Ecology	Protects and maintains water quality and prevents or minimizes sediment, chemicals, and other pollutants from entering surface water and groundwater.	Construction activities that disturb 1 or more acres of land and have potential stormwater or storm drain discharge to surface water.	Construction permit or general permit with conditions to minimize discharge and/or report	Apply to projects disturbing 1 or more acres of land

Permit	Agency	Purpose	Trigger activity	Action	Limitations
Aquatic Use Authorization	DNR	Allows use of state- owned aquatic lands. Washington State Department of Natural Resources (DNR) determines if aquatic land is state- owned, if it is available for use, and if the use is appropriate.	Project located on, over, through, under, or otherwise impacts state- owned aquatic lands. Aquatic lands are defined as tidelands, shorelands, harbor areas, and the beds of navigable waters.	Use authorization permit or lease	Only for state-owned aquatic lands
Section 404 Permit (Regional, Nationwide, or Individual) for Discharge of Dredge or Fill Material	U.S. Army Corps of Engineers	Restores and maintains chemical, physical, and biological integrity of national waters. Authorized under Section 404 of the Clean Water Act.	Excavating, land clearing, or discharging dredged or fill material into wetlands or other U.S. waters.	Permit to discharge dredged or fill material	Concurrent consultation on 401 Certification, CZM, National Historic Preservation Act, Endangered Species Act, Tribal Trust Issues, and National Environmental Policy Act.

Source: Excerpted from Governor’s Office of Regulatory Innovation and Assistance detailed [comparison of aquatic permits](#) by local, state, and federal agencies.

## 9.4.2 Permittee Responsibilities

Permittees are notified in standard HPA permits and in the Gold and Fish pamphlet that it is the permittee’s or miner’s responsibility to meet legal requirements of other state, federal, and local agencies in order to conduct mining activity. Permits from and notifications to other regulatory agencies may be required and applicable landowners or claim holders must be consulted before conducting any activity. These responsibilities are independent from permitting under the hydraulic code rules in the Gold and Fish pamphlet or HPA permit.

## 9.4.3 Determination: Coordinated with other federal, state, and local laws

**WDFW has demonstrated that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.**

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## SECTION 10: Sources of Information Used

*RCW 34.05.271(1)(a) states, “Before taking a significant agency action, the department of fish and wildlife must identify the sources of information reviewed and relied upon by the agency in the course of preparing to take significant agency action. Peer-reviewed literature, if applicable, must be identified, as well as any scientific literature or other sources of information used. The department of fish and wildlife shall make available on the agency’s web site the index of records required under RCW [42.56.070](#) that are relied upon, or invoked, in support of a proposal for significant agency action.”*

Following are references for material reviewed and relied upon by WDFW in the course of preparing to take this rule making action (Table 10), which is a significant legislative rule pursuant to RCW 34.05.328(5)(a). Each reference is categorized for its level of peer review pursuant to RCW 34.05.271. A key to the review categories under RCW 34.05.271 is provided on Table 10A.

**Table 10 References for material reviewed in preparation for rule making**

Reference Citation	Category
Certificate of Enrollment, Engrossed Substitute House Bill 1261. Chapter 10, Laws of 2020.	v
The Diggings. 2020. <a href="#">Mining claims and owners</a> reviewed Dec. 15, 2020. Thediggings.com	viii
Washington Department of Fish and Wildlife. CR-102 form WSR 20-06-053 (for HPA Rulemaking Implementing 2SHB 1579). 2020. 95 pp.	viii
Washington Department of Fish and Wildlife. CR-102 form WSR 19-24-081 (for HPA Rulemaking Implementing 2SHB 1579). 2019. 43 pp.	viii
Washington Department of Fish and Wildlife. 2019. Regulatory Analysis of Hydraulic Code Rules Chapter 220-660 WAC 2019 HPA Suction Dredge Rule Making. 45 pp.	viii
Washington Department of Fish and Wildlife. 2020. Regulatory Analysis for Hydraulic Code Rules Chapter 220-660 WAC Incorporating Elements of 2SHB 1579 Into HPA	viii

Reference Citation	Category
Rules. 63 pp.	
Washington Department of Fish and Wildlife. 2019. Small Business Economic Impact Statement for Hydraulic Code Rules Chapter 220-660 WAC 2019 HPA Suction Dredge Rule Making. 20 pp.	viii
Washington Department of Fish and Wildlife. 2019. Suction Dredge Rulemaking 2019 SEPA Checklist, SEPA #19018. 18 pp.	viii

**Table 10A Key to RCW 34.05.271 Categories Relating to Level of Peer Review**

Category Code	RCW 34.05.271 Section 1(c)
i	Independent peer review: Review is overseen by an independent third party
ii	Internal peer review: Review by staff internal to the department of fish and wildlife;
iii	External peer review: Review by persons that are external to and selected by the department of fish and wildlife;
iv	Open review: Documented open public review process that is not limited to invited organizations or individuals;
v	Legal and policy document: Documents related to the legal framework for the significant agency action including but not limited to: (A) Federal and state statutes; (B) Court and hearings board decisions; (C) Federal and state administrative rules and regulations; and (D) Policy and regulatory documents adopted by local governments;
vi	Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under the processes described in (c)(i), (ii), (iii), and (iv) of this subsection;
vii	Records of the best professional judgment of department of fish and wildlife employees or other individuals; or
viii	Other: Sources of information that do not fit into one of the categories identified in this subsection (1)(c).

## **SECTION 11: For Further Information**

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Washington  
Department of  
**FISH and  
WILDLIFE**

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## **Small Business Economic Impact Statement**

Pursuant to Regulatory Fairness Act (chapter 19.85 RCW)

### **Hydraulic Code Rules Chapter 220-660 WAC**

### **Incorporating Elements of ESHB 1261 into HPA Rules**

WAC 220-660-030 Definitions

WAC 220-660-050 Procedures

WAC 220-660-300 Mineral Prospecting

WAC 220-660-305 Suction Dredging [Renamed]

**This proposal requires standard Hydraulic Project Approval (HPA) permits for use of motorized and gravity siphon equipment for mineral prospecting and mining that discharges water, requires proof of Clean Water Act compliance for permit applications, and eliminates the annual reporting requirement for suction dredging.**

Washington Department of Fish and Wildlife  
Habitat Program  
Protection Division  
Olympia, Washington

December 10, 2020

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***Mission***  
*of the*  
*Washington Department of Fish and Wildlife*

*To preserve, protect and perpetuate fish, wildlife, and ecosystems  
while providing sustainable fish and wildlife  
recreational and commercial opportunities.*

Persons with disabilities who need to receive this information in an alternative format or who need reasonable accommodations to participate in WDFW-sponsored public meetings or other activities may contact the ADA Manager by phone (360-902-2349), TDD (360-902-2207), or by email at [ADAProgram@dfw.wa.gov](mailto:ADAProgram@dfw.wa.gov) . For more information, see [http://wdfw.wa.gov/accessibility/reasonable\\_request.html](http://wdfw.wa.gov/accessibility/reasonable_request.html).

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## SECTION 1 Describe Rule and Compliance Requirements

### 1.1 Background

The state Legislature gave the Washington Department of Fish and Wildlife (WDFW) the responsibility to preserve, protect, and perpetuate all fish and shellfish resources of the state. To help achieve this mandate, the Legislature passed a state law in 1943 called *Protection of Fish Life*. Now titled *Construction projects in state waters* and codified as [Chapter 77.55 RCW](#), the entire text of the statute can be found at: <http://app.leg.wa.gov/RCW/default.aspx?cite=77.55>.

Under the authority of Chapter 77.55 RCW, WDFW issues a construction permit called a Hydraulic Project Approval (HPA). The sole purpose of the HPA is to protect fish life from construction and other work that affects the flow or bed of state waters. HPAs are site-specific, meaning that provisions are tailored to the site conditions and species that might be affected by each particular project. The HPA contains conditions that a permittee must follow in order to mitigate<sup>1</sup> impacts to fish life caused by the project.

Chapter 77.135 RCW - Invasive Species - provides authority for WDFW to address invasive species using an integrated management approach. Authority is conveyed for WDFW to adopt rules to require clean/drain/dry or other decontamination methods and to require inspections for aquatic conveyances entering Washington State.

WDFW promulgates rules to implement Chapter 77.55 RCW under [Chapter 220-660 WAC](#) - *Hydraulic Code Rules*. This WAC chapter establishes regulations for administration of the HPA program. The Hydraulic Code Rules set forth definitions, administrative procedures for obtaining an HPA, steps for HPA appeals and civil compliance, and criteria generally used by WDFW to review and condition hydraulic projects to protect fish life.

One type of hydraulic project regulated by WDFW is placer<sup>2</sup> mineral prospecting and mining using motorized and nonmotorized prospecting and mining equipment. Pursuant to RCW 77.55.091 and WAC 220-660-050(9), WDFW implements WAC 220-660-300 primarily through distribution of a "Gold and Fish Pamphlet," which is a document that describes methods of, and restrictions for, mineral prospecting and mining that are regulated through the pamphlet. A person<sup>3</sup> does not need to apply for an individualized, standard HPA if they are conducting mineral prospecting activities in accordance with the Gold and Fish Pamphlet. Persons who want exceptions to provisions in the Gold and Fish Pamphlet must apply for standard HPAs.

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<sup>1</sup> "Mitigation" is defined in WAC 220-660-030(100) to mean sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.

<sup>2</sup> "Placer" means a glacial or alluvial deposit of gravel or sand containing eroded particles of minerals. WAC 220-660-030(113)

<sup>3</sup> A "person" is defined in WAC 220-660-030(112) as meaning "an applicant, authorized agent, permittee, or contractor. The term person includes an individual, a public or private entity, or organization." This term is used throughout this SBEIS to refer to individuals and businesses.

## **1.2 Compliance requirements of the proposed rule and applicability of the Regulatory Fairness Act RCW 19.85**

*RCW 19.85.040(1) provides, “A small business economic impact statement must include a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements.”*

*RCW 19.85.025(3) provides, “This chapter does not apply to the adoption of a rule described in RCW 34.05.310(4).”*

ESHB 1261 was signed into law in March 2020 and made changes to chapter 77.55 RCW. In order to align with the changes to state law, WDFW developed rule proposals for several WAC sections. Below is a brief description of all the proposed changes and their status in this SBEIS. Regulatory Fairness Act (RFA) exemptions are presented in Table 1.

220-660-030 (Definitions): revises three definitions for clarity and adds new definitions for “gravity siphon aquatic mining” and “motorized or gravity siphon equipment” as reflected in the new statutory definitions for those terms. Changes in this section correct or clarify language without changing the effect of that language and do not create compliance requirements. This section is not discussed further in this analysis.

220-660-050 (Procedures): requires that proof of compliance with the federal Clean Water Act must be included in a standard HPA application for mineral prospecting or mining using motorized or gravity siphon equipment. The proposal also specifies that the department may reject an incomplete application for mineral prospecting or mining using such equipment if the proposed project location or locations occur where they are prohibited under RCW 90.48.

Proof of compliance with the federal Clean Water Act is differentiated in this document from the act of compliance with the Clean Water Act. The costs of relevant prohibitions and permitting under the Clean Water Act are not incorporated into this analysis under RCW 19.85 or RCW 34.05.328 because such costs are indirect and result from new legal requirements that are outside the scope of WDFW’s rulemaking authority under RCW 77.55. Proof of compliance with the Clean Water Act is a new HPA application requirement that is specifically dictated by statute in RCW 77.55.021(2)(e) and is therefore not discussed in this analysis.

HPA applications for motorized or gravity siphon mineral prospecting and mining methods which are to occur in locations where an activity is prohibited under RCW 90.48.615(2) are impossible to complete statutorily under the proof-of-compliance requirement of RCW 77.5.021(2)(e). Department procedures for handling of these incomplete applications are internal government operations and not evaluated in this analysis.

220-660-300 (Mineral Prospecting): removes authorization for motorized or gravity siphon mineral prospecting activities from the Gold and Fish pamphlet rules. Those activities are moved to 220-660-305. Changes to this section do not create new compliance requirements and so it is not discussed further in this analysis.

220-660-305 (Suction Dredging): changes the name of this section to “Mineral prospecting involving motorized or gravity siphon equipment” and contains rules for prospecting using motorized or gravity siphon equipment. Specifically, it expands the existing requirements for



suction dredging to include all prospecting with motorized or gravity siphon equipment. The reason for this requirement is to implement RCW 77.55.021(2)(e). The annual reporting requirement for suction dredging is repealed. This WAC section is the subject of this SBEIS analysis.

**Table 1 RFA exemptions to the proposed rule changes**

Section	Change	RFA exempt?	Exemption citation
030 Definitions	Multiple changes to definitions, one addition, one deletion	Y	RCW 34.05.310(4)(d) Correct or clarify language
050 Procedures	Require proof of compliance with federal Clean Water Act in HPA applications	Y	RCW 34.05.310(4)(e) Dictated by statute
050 Procedures	Allow WDFW to reject incomplete applications for prohibited locations	Y	RCW 34.05.310(4)(b) Internal government operations

### **1.3 Professional Services Required**

One goal of WDFW’s HPA application system is that applicants are able to complete and submit an application without the assistance of professional services. WDFW provides free support services during normal business hours to persons having difficulty establishing an account, starting an application, completing an application, and submitting that application.

HPAs for mineral prospecting projects that move less than 50 cubic yards of material are exempt from SEPA under WAC 197-11-835(2)<sup>4</sup>. Applicants wishing to move less than 50 cubic yards can cite this exemption in order to meet the application requirement of providing proof of SEPA compliance under RCW 77.44.021(2)(d). Applicants wishing to move 50 cubic yards or more of material must complete a SEPA checklist and submit it to the SEPA lead agency so that the lead agency can make a determination about the effects of the project on the environment. Providing a copy of the lead agency’s determination as part of the HPA application is generally sufficient for purposes of complying with RCW 77.55.021(2)(d).

One reason many HPA applicants might need professional services is to obtain engineering advice and engineer-certified plans and specifications to file with their HPA application. Because motorized and gravity siphon prospecting are not construction activities, engineered plans and specifications are not required to complete the application. As a result, applicants are unlikely to use professional services.

<sup>4</sup> WAC 197-11-835 “The following activities of the department of fish and wildlife are exempted:”... “(2) Hydraulic project approvals where there is no other agency with jurisdiction [besides the department of fish and wildlife] requiring a nonexempt permit, except for proposals involving removal of fifty or more cubic yards of streambed materials ...”

Professional services relating to maintaining a computer and internet connection would be included under “Administrative Costs.”

Refer to section 7 (cost-benefit analysis) of the Regulatory Analysis for more about economic considerations relating to the rule. The Regulatory Analysis document is available at: <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

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## **SECTION 2 Identify Businesses - Minor Cost Threshold**

*RCW 19.85.040(2)(c) states, “Provide a list of industries that will be required to comply with the rule. However, this subsection (2)(c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply.”*

*RCW 19.85.020(1) states, “Industry” means all of the businesses in this state in any one four-digit standard industrial classification as published by the United States department of commerce, or the North American industry classification system as published by the executive office of the president and the office of management and budget.’*

*RCW 19.85.020(2) states, “Minor cost” means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll.’*

This rule making activity regulates placer gold or mineral prospecting and mining methods in Washington that involve motorized and gravity siphon equipment, including but not limited to spiral wheels, concentrators and high-bankers, gravity siphons, suction dredges, power sluice/suction dredge combinations, high-bankers and power sluices. Any business that conducts motorized or gravity siphon placer mining would be required to comply with the proposed rules. Those businesses conducting suction dredging are already required to obtain an individualized, standard HPA under the existing rules.

WDFW took several steps to attempt to identify businesses that would need a standard HPA to conduct suction dredging. The first step WDFW took was to survey stakeholders and mineral prospecting HPA holders.

We also attempted to identify industries by four- and six-digit North American Industry Classification System (NAICS) codes. Mineral prospecting and mining businesses directly regulated by WDFW fit under the 4-digit NAICS code 2122 for metal ore mining and more specifically, the six-digit code 212221 for gold ore mining. WDFW collected and reviewed data relating to businesses under the 2122 and 212221 industry codes. That effort did not yield data for the review because of the limited number of businesses in Washington. Further explanation is provided in section 2.2.

WDFW made additional inquiries using internet and state-run business databases (section 2.3). Forty-four potential businesses were identified, but ultimately none of them yielded any data for the SBEIS analysis. Most were not involved in mineral prospecting. Others no longer existed, could not be located, or did not conduct business in Washington.

This research led WDFW to conclude that identifying mineral prospecting businesses based on business name, business owner, or 4- or 6-digit NAICS codes does not help us identify the businesses required to comply with the proposed rule. Because of this, it is difficult to obtain the kinds of data needed to complete the SBEIS analysis.

Considering these information constraints, WDFW decided to rely upon survey data (section 2.4) from the mineral prospectors themselves to estimate the costs to comply with the rule, and to otherwise do the best we could to make the estimates required in the SBEIS with the available data. Ultimately, WDFW relies upon steps to lessen impacts imposed by the proposed rule on small businesses and other persons (section 6).

The following subsections provide more detail on the research WDFW conducted to identify businesses that might be required to comply with the proposed rule, and our conclusions based on that research.

## **2.1 Business research**

When WDFW began to prepare the documents necessary to accompany rule change proposals, we considered how we might get information from miners and mining businesses about the economic impacts of the proposed rule.

WDFW developed a survey to determine the time and financial costs related to acquiring an HPA permit. The survey also attempted to identify mineral prospecting businesses, and some basic information about those businesses. We developed an extensive stakeholder list during our 2018 suction dredge rule making process. That list includes individual prospectors, clubs, businesses, nonprofit groups, government agencies, and other interested parties. We also compiled the names of those who have acquired the 174 suction dredging HPAs that have been issued in the past 5 years. Altogether, our current outreach list totals 472 names. We sent survey invitations by email to the entire outreach list on July 31, 2020. The survey was available online for three weeks. We received a total of eighty-one responses. Sixty respondents reported that they had applied for a mineral prospecting HPA in the past, while twenty reported that they had not. Those who had applied were asked about the time required and the cost to hire help for the application, as well as collecting information about any mineral prospecting businesses.

Four respondents indicated that they owned a mineral prospecting business. The business types were broken down as: three sole proprietorships and one corporation. One of these provided their business name, contact information, and Washington Universal Business Identifier (UBI). Another provided their UBI number. One provided only an NAICS code (212221). The unnamed UBI number was entered into the Washington State Department of Revenue (DOR) Business Lookup Tool<sup>5</sup>. It did not turn up a valid business account. In total, we were able to obtain data from four businesses and positively identify one of them. That business volunteered to be contacted for further questions.

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<sup>5</sup> <https://secure.dor.wa.gov/gteunauth/#1>

## 2.2 Metal ore mining businesses - NAICS 212221

To further identify businesses that might be affected by the suction dredge rule proposals, WDFW examined the NAICS list of industries to identify which industries are directly regulated by WAC 220-660-305. Mineral prospecting and mining businesses directly regulated by WDFW fit under the 6-digit NAICS code 212221 for gold ore mining. Information under this code was completely masked due to the small number of establishments, and therefore of no use. We examined data for a somewhat larger category, using the 4-digit NAICS code 2122 for metal ore mining. Table 2 presents data from the SBEIS tools<sup>6</sup> for the NAICS codes 212221 and 2122.

**Table 2 Businesses data for businesses identified under industry classification codes 212221 and 2122**

Industry 4-digit or 6-digit 2012 NAICS Code	NAICS Code Definition	Number of Establishments	TOTAL Annual Payroll	TOTAL Annual Revenue	AVG Annual Payroll	AVG Annual Revenue	1% of Annual Payroll	<0.3% of annual revenue or income or \$100
212221	Gold Ore Mining	D	D	D	D	D	D	\$100
2122	Metal ore mining	3	D	\$12,127,576	D	\$4,043,525	D	\$12,128

Source: Washington State Auditor Minor-Cost-Threshold Calculator.xlsm, which uses data from the 2017 Economic Census of the United States.

Codes: "D" means data are withheld to avoid disclosing data for individual companies; data are included in higher level totals.

Numbers of employees in Washington under these NAICS codes are range "e": 250 to 499 employees. The actual number is withheld to avoid disclosing data for individual companies.

WDFW made several observations about this information. First, there are so few businesses in this industry in Washington that employment and payroll data are masked by the U.S. Census Bureau to avoid disclosing information for individual companies. Second, the provided revenue data for NAICS code 2122 (e.g., average annual business revenue of \$4 million) do not seem to fit the kind of businesses WDFW assumes would be required to comply with the proposed motorized or gravity siphon equipment rule. This determination is based on anecdotal information provided by miners in 2017<sup>7</sup> indicating that the average miner yields 3 grams of gold per day and that miners average 20 days of suction dredging per year. 3 grams of gold times 20 days per year equals 60

<sup>6</sup> "SBEIS Tools" include document templates, spreadsheets, examples, and other guidance provided by the Governor's Office of Regulatory Innovation and Assistance, the state Auditor's Office, and the Office of Financial Management: [https://www.oria.wa.gov/site/alias\\_oria/934/Regulatory-Fairness-Act-Support.aspx](https://www.oria.wa.gov/site/alias_oria/934/Regulatory-Fairness-Act-Support.aspx)

<sup>7</sup> Wheeler, S. and W.S. Brown. October and November 2017. Personal Communications.

grams of gold per year, worth \$3,690.00 today<sup>8</sup>. WDFW would expect the average annual revenue for a business involving suction dredging to be closer to \$3,700 than \$4 million. Because of this, WDFW determined that data from the SBEIS tools were of limited utility in developing the SBEIS analysis.

### **2.3 Business research**

In September 2020, WDFW did further research to identify businesses subject to the new HPA requirements. We conducted searches to find businesses with “prospecting”, “prospector”, “placer” or “gold mining” in the business name. Primary online tools were business data bases maintained by Department of Licensing, Department of Revenue, and Office of the Secretary of State<sup>9</sup>, and web searches using Google. We found forty-four businesses during the search and conducted deeper searches on eleven. The others were not primarily mineral prospecting businesses, as evidenced by names and NAICS numbers. Of the remaining eleven, four were closed according to the Department of Revenue business lookup tool. Two others were also quickly eliminated as one turned out to be a jeweler and the other a gold, silver and antiques dealer.

Three of the businesses were identified as owned by the same person. WDFW was able to contact that individual’s primary business by telephone. We received a response back that none of the three mining businesses were currently conducting any mining or mineral operations in Washington<sup>10</sup>. The last business could not be located online or physically. It appears to have moved to an unknown location according to an address search of the Skagit County property search website<sup>11</sup>.

#### **2.3.1 Conclusions drawn from business research**

When we conducted the research described in sections 2.2 and 2.3, we expected the results would add to our list of businesses involved in metal ore mining (NAICS 212221) or we would discover other NAICS codes to include in our small business analysis. Instead, we observed that most of the businesses among these results are identified in widely differing industries (i.e. have NAICS codes that indicate primary activities that are very different from gold mining or metals mining) or have no identified industry.

At this point, WDFW concluded that 1) Even though NAICS codes 2122 and 212221 seem to be most closely aligned with the business activity regulated by WDFW, “212221” businesses don’t adequately represent mineral prospecting conducted under WAC 220-660-305; 2) it’s impractical to determine whether a business is affected under this proposal based solely on searches using the Department of Revenue Business Lookup Tool, and 3) motorized and gravity siphon aquatic

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<sup>8</sup> <https://goldprice.org/> Gold spot price at \$61.50 U.S. dollars per gram. Accessed on October 5, 2020 at 8:02pm Eastern Standard Time.

<sup>9</sup> Note that business information from Licensing, Revenue, and Secretary of State is now available using the Revenue “Business Lookup” tool instead of the separate searches conducted in 2017.

<sup>10</sup> Maryann Rhodes (voicemail). October 14, 2020. Personal Communications.

<sup>11</sup> <https://www.skagitcounty.net/Search/Property/> accessed 10/9/2020.

mining-related businesses in non-mining industry codes are not likely to be fairly represented by using payroll and income census data for those industry codes in the SBEIS analysis.

## 2.4 Survey - Data results for effort and costs

As described in section 2.1, WDFW sent out a survey to 472 contacts on our distribution list. The survey collected information about the time and cost to acquire an HPA for mineral prospecting activities. The questions were presented only to those who first responded that they had previously applied for an HPA. The values are understood to be data based on real experience rather than hypothetical estimates. The results are summarized in Table 3. The median time spent was three hours, with a maximum of sixty hours. The relatively low numbers may be explained in part by the fact that the majority (74%) used the simplified application form. The other 28% filled out either the Aquatic Protection Permitting System (APPS) online form or the Joint Aquatic Resources Permit Application (JARPA) form. The JARPA form is considerably longer than either the simplified form or the regular online form.

Seven individuals indicated that they had sought professional assistance. The cost for that assistance was reported as \$100 or less for all but one respondent. The median value was impacted by the fact that two respondents reported hiring assistance but then identified their cost as \$0. It was also impacted by an outlier data point of \$2,000. We use the median of responses (the middle value in the list of responses) for all the survey results because the data received contained outliers that would influence a standard mean or average (sum of responses divided by the number of responses).

The survey attempted to differentiate mineral prospecting businesses and their specific effort and costs. The median time reported by businesses to apply for HPAs was 1 hour, with 4 hours being the highest reported time effort. No businesses reported hiring professional assistance.

**Table 3 Overall survey responses for time and financial cost to apply for an HPA**

	Median hours spent applying for an HPA	Response range for hours spent applying for an HPA	Median cost for application assistance	Response range for cost for application assistance
All responses (52)	3	0.5 to 60	\$100	\$0 to \$2,000
Business responses (4)	1	0.5 to 4	none	none

## 2.5 Minor cost threshold

WDFW concluded that neither the SBEIS tools nor the research completed in steps described in sections 2.2 and 2.3 can help us identify the minor cost thresholds.

*Identify the minor cost thresholds for that industry.*

Pursuant to RCW 19.85.020(2), "Minor cost" means "a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll."

WDFW determined that neither industry codes 2122 nor 212221, nor any other industry identified during our research provides data are representative of the businesses required to comply with the proposed rule. WDFW does not have payroll, employment, or business revenue data for businesses of any size required to comply with the proposed rule. Therefore, the minor cost threshold for this analysis is determined to be \$100 (Table 4). Any costs imposed on a small business that are over \$100 would be considered for this analysis to be more than minor and potentially disproportionate.

**Table 4 Small Business Industry Classification and Minor Cost Thresholds**

North American Industry Classification System (NAICS) code	212221
NAICS Business Description	Gold ore mining
# of businesses in Washington	Unknown, data is masked (from Revenue in September 2020)
Minor Cost Threshold = the greater of <0.3% of annual revenue or income, or \$100	Average annual receipts for businesses that would be regulated under proposed WAC 220-660-305 are unknown, so we use \$100 for this analysis.
Minor Cost Threshold = 1% of annual payroll	Average annual payroll for businesses that would be regulated under proposed WAC 220-660-305 is unknown, so we use \$0.00 for this analysis.
Applicable minor cost threshold	\$100

### SECTION 3 Costs of Compliance

***RCW 19.85.040(1) provides, "...It [the SBEIS] shall analyze the costs of compliance for businesses required to comply with the proposed rule adopted pursuant to RCW 34.05.320, including costs of equipment, supplies, labor, professional services, and increased administrative costs..."***

WDFW estimated the costs to comply with the proposed rules. We used the cost of hiring help for the HPA application process as reported in the survey. We also used responses for hours per permit and a cost per hour established by WDFW. Those two values were combined to estimate a cost per permit. We used a similar "hours x cost per hour" approach to estimate the cost of aquatic invasive species prevention.

Because there are no industry records of annual payroll to help us estimate costs per hour for the suction dredging and motorized prospecting industry, WDFW referenced mining labor data provided by the Bureau of Labor Statistics<sup>12</sup>. We chose the worker type we think mostly closely

<sup>12</sup> Bureau of Labor Statistics. Industries at a Glance Statistics for Metals Ore Mining NAICS 2122. Occupation: Continuous Mining Machine Operator (a worker who extracts raw materials from the ground for commercial and other uses by operating self-propelled mining machines that rip coal, metal and nonmetal ores, rock, stone, or

matches the work of a suction dredger - Continuous Mining Machine Operator - which earned an average hourly wage of \$28.68 for metal ore mining in 2019. We are using this figure to estimate hourly costs per individual for the time taken to comply with the proposals.

We anticipate the cost of equipment and supplies to be minimal. WDFW's HPA applications can be completed online using a home computer with an internet connection. Computers and internet connectivity are available for free to the public at most libraries.

### **3.1 Multiple permits**

Most HPAs are issued for a 5-year period pursuant to WAC 220-660-050(14)(a). Pursuant to WAC 220-660-050(b)(ii)(A), a standard multi-site HPA can authorize work at multiple project sites if: (I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area; (II) The primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and (III) Work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

Analysis of existing mineral prospecting HPAs found that three individuals held two permits each in the past five years out of 172 total permit holders. Two of those people had multiple sites, necessitating two permits. The third was eligible for a single multi-site permit rather than two single-site permits. Given the existing rate of 1.1% (or 2 of 172) of permittees needing multiple permits, we have conducted our cost-to-comply analysis based on the more common condition of one permit per applicant.

### **3.2 Calculated costs to comply**

#### **3.2.1 Costs to comply with the HPA-required rule**

Each person wishing to lawfully conduct activities covered in WAC 220-660-305 in Washington State will be required to obtain an HPA. A person is not required to apply for an HPA; however, an HPA is required if a person wishes to conduct the activity. WDFW assumes that each of those HPAs would be issued for a 5-year period as allowed under WAC 220-660-050(14)(a).

If a person takes 3 hours (median survey response) to complete an HPA application, that costs \$86.04 in labor based on our estimated cost per hour. If professional assistance is required, then \$100 is added to the cost for a total of \$186.04. If each HPA is valid for 5 years, and each person needs only one HPA, then the annual cost per person to complete the application process is \$186.04 divided by 5, or \$37.21 per year.

Businesses reported taking one hour (median survey response) to complete an HPA application for a labor cost of \$28.68. No business reported hiring professional assistance, but if \$100 from the general survey responses is applied, then a business may spend a total of \$128.68. Over 5 years, the cost comes to \$25.74 per year.

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sand from the mine face and load it onto conveyors or into shuttle cars in a continuous operation.) Downloaded September 14, 2020 from [https://www.bls.gov/oes/current/naics4\\_212200.htm#47-0000](https://www.bls.gov/oes/current/naics4_212200.htm#47-0000). Note that the machine referenced for this occupation is nothing like the motorized equipment used in Washington, but it was the closest occupation we could find for the U.S. metal ore mining industry as a whole.



In summary, we have estimated that the range of costs for an individual or small business to comply is from \$128.68 to \$186.04. Over the 5-year permit period, the range is \$25.74 to \$37.21 per year.

### **3.2.2 Costs to comply with the Aquatic Invasive Species Rule**

The expansion of WAC 220-660-305, from suction dredging to all motorized and gravity siphon equipment, includes the aquatic invasive species prevention rules in WAC 220-660-305(4). The subsection specifies that all motorized and gravity siphon equipment that has been used in waters outside of Washington State must be inspected for the presence of aquatic invasive species. Further, all motorized and gravity siphon equipment used in any water of the state must be decontaminated according to department specification prior to use in a different water of the state.

“Clean-Drain-Dry” decontamination steps published on the WDFW web site can be undertaken by the average person using supplies commonly available: hot water, brushes, and household cleaning liquid<sup>13</sup>. WDFW conducted a survey of suction dredgers in January 2019 that included questions about decontamination of equipment<sup>14</sup>. They reported that cleaning and drying out their equipment is a regular activity associated with dredging because they want to ensure that all the gold collected by the equipment is recovered. Eighty-four percent of survey respondents indicated they took decontamination steps in 2018.

The proposed rules also require persons bringing motorized and gravity siphon equipment into Washington from out-of-state to have their equipment inspected for the presence of aquatic invasive species prior to using that equipment to mineral prospect in Washington. Inspections for the presence of aquatic invasive species are available at major highway entry points into the state, so persons bringing equipment into Washington can arrange their entry so they are inspected as they cross the state line. Certificates of inspection are available on request at the time the inspection is completed. Inspections and certificates are provided at no cost.

If a person takes 2 hours and 30 minutes (median survey response) to comply with the proposed aquatic invasive species decontamination rule for suction dredging equipment, that costs \$71.70 in labor. Suction dredging equipment is generally larger and more complex to clean than the equipment being added under this rule making. WDFW estimates that the time required to decontaminate the simpler and smaller equipment would be somewhat less. We are using the larger value in lieu of a more specific estimate for the smaller equipment to accommodate for any uncertainty in our estimate.

### **3.2.3 Summary of Costs to Comply**

The up-front cost to acquire a permit is estimated from \$128.68 to \$186.04. The cost to comply with the aquatic invasive species rule is estimated at \$71.70 annually. The total cost to comply in the first year of a permit is the highest, and is estimated from \$200.38 to \$257.74. Total costs to comply per person per year over a 5-year permit range from \$97.44 to \$108.91.

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<sup>13</sup> <https://wdfw.wa.gov/ais/youcanhelp.html>

<sup>14</sup> Details about the survey can be found in the Small Business Economic Impact Statement for the Hydraulic Code Rules Chapter 220-660 WAC 2019 HPA Suction Dredge Rulemaking, available at <https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking#Final-rule>.

### 3.3 Lost sales or revenues and lost jobs

*RCW 19.85.040(1) states, "...It [The SBEIS] shall consider, based on input received, whether compliance with the rule will cause businesses to lose sales or revenue..."*

Data regarding industry revenue was unavailable. The results from searches using the SBEIS tools are summarized in Table 2. WDFW conducted a phone interview with one business that was identified in the online survey. That business reported permitting complications that caused a one-month work delay at one site. The estimated value of that delay was \$2,000. The business interviewed indicated that they had no employees and that no jobs would be created or lost because of the proposed rules. Additional data on employment was also unavailable. The Washington Employment Security Department Employer Database tool<sup>15</sup> returned no results on companies that hire employees. The US Census Bureau 2017 Economic Census contained only masked data for annual sales, revenue and payroll. The number of employees was given as 250-499, which is also a masked value.

Based on insufficient data, WDFW was unable to estimate the number of jobs created or lost, or changes to sales and revenue, as a result of compliance with the proposed rule.

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## SECTION 4 More than Minor Costs

*RCW 19.85.030(1)(a) provides, "In the adoption of a rule under chapter 34.05 RCW, an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry; ..."*

*RCW 19.85.020(2) provides, "'Minor cost' means a cost per business that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll...'*

The RCW chapter 19.85 does not specify whether the cost to consider per business is the up-front cost or the average cost per year. Based on the costs of compliance estimated in section 3.2.3, the estimated costs for an individual or business to comply in the first year with the proposal (\$200.38 to \$257.74) surpasses the minor cost threshold of \$100 shown on Table 4. The annual cost to comply over a 5-year permit (\$97.44 to \$108.91) lands right at the top of the \$100 minor cost threshold. WDFW has used the first-year cost and developed a complete SBEIS to maximize transparency during rulemaking and to better inform the regulated community.

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## SECTION 5 Disproportionate Impact on Small Businesses

*RCW 19.85.040(1) provides, "...To determine whether the proposed rule will have a disproportionate cost impact on small businesses, the impact statement must compare the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the*

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<sup>15</sup> <https://esd.wa.gov/find-an-employer#/>

*proposed rules using one or more of the following as a basis for comparing costs: (a) Cost per employee; (b) Cost per hour of labor; or (c) Cost per one hundred dollars of sales.”*

Four survey respondents identified themselves as businesses required to comply with the proposed rule; no others self-identified as businesses. One survey respondent identified as a small business and reported no employees during a phone interview. WDFW is unable to distinguish the cost of compliance between small businesses and the ten percent of businesses that are the largest businesses required to comply. However, WDFW acknowledges the possibility that smaller businesses may face a higher proportionate cost than larger businesses.

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## **SECTION 6 Steps to Reduce Costs to Individuals or Small Businesses**

*RCW 19.85.030(2) states, “Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW [19.85.040](#) [i.e. in Section 5 of this document], the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:”* [Note: RCW 19.85.030(2)(a) through (f) lists the methods, which are also listed under items (a) through (f) in Table 4 of this document ].

*RCW 19.85.030(3) states, “If a proposed rule affects only small businesses, the proposing agency must consider all mitigation options defined in this chapter.”*

*RCW 19.85.030(4) states, “In the absence of sufficient data to calculate disproportionate impacts, an agency whose rule imposes more than minor costs must mitigate the costs to small businesses, where legal and feasible, as defined in this chapter.”*

*RCW 19.85.030(5) states, “If the agency determines it cannot reduce the costs imposed by the rule on small businesses, the agency must provide a clear explanation of why it has made that determination.”*

*RCW 19.85.040(2) states, “A small business economic impact statement must also include: (a) A statement of the steps taken by the agency to reduce the costs of the rule on small businesses...”*

The goals and objectives of the statutes that the proposed rule is intended to implement are discussed fully in section 4 of the Regulatory Analysis, available at:

<https://wdfw.wa.gov/licenses/environmental/hpa/rulemaking>.

**Table 5 Required methods of reducing costs imposed by the rule on small businesses**

RCW 19.85.030 (2) Requirements		WDFW response
Sub-section	Method	
a)	Reducing, modifying, or eliminating substantive regulatory requirements	WDFW considered reducing, modifying, or eliminating substantive regulatory requirements in the proposal. The requirements are predominantly limited to those necessary to align WAC 220-660 with ESHB 1261 (Laws of 2020, chapter 10)
b)	Simplifying, reducing, or eliminating recordkeeping and reporting requirements	The reporting requirements in WAC 220-660 305(8) will be eliminated.
c)	Reducing the frequency of inspections	Not applicable to this proposal. The requirement must be met prior to an HPA being issued.
d)	Delaying compliance timetables	The rule does not address the compliance timetables.
e)	Reducing or modifying fine schedules for noncompliance; or	The rule does not affect fines for noncompliance.
f)	Any other mitigation techniques, including those suggested by small businesses or small business advocates.	WDFW has been and will continue working with miners to identify and implement actions to lessen impacts to miners; Other techniques are discussed in Section 6.1.

**6.1 Other actions considered to lessen costs to businesses**

- Environmental stakeholders suggested that a separate application be developed for motorized mining HPAs. This approach is deemed not necessary at this time because a simplified permit application already exists and is commonly used. There is no evidence to suggest that a separate application form would further reduce costs to businesses.
- One prospecting stakeholder suggested an equipment buyback plan for those who will no longer be able to use their equipment. WDFW is not pursuing this option because all prospectors will have the option to apply for a standard HPA that will permit them to use their equipment in allowed areas. Motorized and gravity siphon aquatic mining prohibitions in certain areas are outside the scope of WDFW’s rulemaking authority under RCW 77.55.

## 6.2 Additional steps WDFW has taken to lessen impacts

Several steps were taken during the preproposal period and prior to reduce costs to comply with the proposal:

- WDFW has designed the proposal such that the simplified HPA application remains an option. The simplified application is easier to complete than the Joint Aquatic Resources Permit Application (JARPA) used by other agencies.
- The proposal allows WDFW to reject applications for prohibited locations. These applications are otherwise impossible to move beyond incomplete status and would remain in a state of limbo indefinitely. The rejection process allows applicants to receive a timely decision about the status of their applications.

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## SECTION 7 Involving stakeholders in rule development

*RCW 19.85.040(2) states, “A small business economic impact statement must also include:... (b) A description of how the agency will involve small businesses in the development of the rule.”*

*RCW 19.85.040(3) states, “To obtain information for purposes of this section, an agency may survey a representative sample of affected businesses or trade associations and should, whenever possible, appoint a committee under RCW [34.05.310\(2\)](#) to assist in the accurate assessment of the costs of a proposed rule, and the means to reduce the costs imposed on small business.”*

Because requiring applications is integral to the objectives for rule making, WDFW took advantage of opportunities to communicate the objectives of rule making to those affected, and to obtain information from affected persons about how the rules would impact them. Those events are summarized in Table 6.

**Table 6 Stakeholder contact events**

Date(s)	Person(s)	Activity
4/28/20	Fish and Wildlife Commission Habitat Committee	Habitat Program staff introduced rulemaking to be done in response to ESHB 1261
5/6/20	U.S. Forest Service and Hydraulic Code Implementation Citizens Advisory Group (HCICAG)	Emailed draft communication plan
5/26/20	Director	Habitat Program Director briefed the WDFW Director

Date(s)	Person(s)	Activity
6/11/20	News Release	Announcing that ESHB 1261 took effect June 11, 2020
6/18/20	Tribes	Tribal Affairs sent an email notification of rulemaking initiation, objectives, and copy of CR-101
6/19/20	Stakeholders and Agencies	Habitat Program sent an email notification of rulemaking initiation, objectives, and copy of CR-101
6/25/20	Stakeholders and Agencies	Habitat Program sent an email regarding changes to and publication of a new Gold and Fish Pamphlet
7/31/2020	Stakeholders, Agencies and prospecting HPA holders	Habitat Program sent an email providing background on the rulemaking and an invitation to participate in a survey for the SBEIS
9/28/2020 10/14/2020 10/22/2020	Prospecting businesses (names kept confidential)	Habitat Program sent emails and phone calls to collect data for the SBEIS and Regulatory Analysis (RA)
11/10/2020	HCICAG	Habitat Program distributed draft rule proposal for review
11/30/2020	HCICAG	Draft SBEIS distributed for review
12/11/2020	Tribes	Rule proposal and SBEIS distributed for review
December 2020	Stakeholders and Agencies	Habitat Program will distribute information and notice of the upcoming comment periods for rule making and for SEPA. A narrated Power Point slide show will be posted to the HPA Rulemaking website for public use.

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## SECTION 8 Number of jobs created or lost

*RCW 19.85.040(2) states, "A small business economic impact statement must also include:... (d) An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule."*

There will likely be no jobs newly created or lost as a result of this proposal. A large portion of the regulated community is already required to obtain an individual HPA under WAC 220-660-305 for suction dredging.

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## **SECTION 9 Summarize results of small business analysis**

Costs to comply with the proposal are more than the small business minor cost threshold of \$100. The up-front cost to acquire a permit is estimated from \$128.68 to \$186.04. The cost to comply with the aquatic invasive species rule is estimated at \$71.70 annually. Total costs to comply per person per year range from \$97.44 to \$108.91. There is insufficient information to determine disproportionate impacts between small businesses and larger businesses. Mitigation steps taken are presented in Section 6.

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## **SECTION 10 Report Preparation**

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