

Chapter 173-511 WAC

INSTREAM RESOURCES PROTECTION PROGRAM—NISQUALLY RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 11

WAC

- 173-511-010 General provision.
- 173-511-020 Purpose.
- 173-511-030 Establishment of instream flows.
- 173-511-040 Surface water source limitations to further consumptive appropriations.
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- 173-511-070 Exemptions.
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- 173-511-100 Regulation review.

WAC 173-511-010 General provision. These rules apply to waters within the Nisqually River basin, WRIA 11, as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-010, filed 2/2/81.]

WAC 173-511-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Nisqually River basin with instream flows and levels necessary to provide protection for wild-life, fish, scenic, aesthetic, environmental values, recreation, navigation, and to preserve water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-020, filed 2/2/81.]

WAC 173-511-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

STREAM MANAGEMENT UNIT INFORMATION		
Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach
New gage Nisqually River	4.3 9, 18N, 1E	From influence of mean annual high tide at low base flow levels to the outlet of the Centralia City Light Power Plant.
12-0895-00 Nisqually River	21.8 28, 17N, 2E	From outlet of the Centralia City Light Power Plant at river mile 12.6 to Centralia City Light Power canal diversion at river mile 26.2, including all tributaries.
12-0884-00 Nisqually River	32.6 21, 16N, 3E	From the Centralia City Light Power canal diversion at river mile 26.2 to gage 12-0865-00 near the La Grande Power Plant, including all tributaries except the Mashel River.

Nisqually River Basin—WRIA 11

STREAM MANAGEMENT UNIT INFORMATION

Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach
12-0825-00 Nisqually River	57.8 29, 15N, 6E	From gage 12-0865-00 near the La Grande Power Plant to the headwaters including all tributaries.
12-0870.00 Mashel River	3.25 11, 16N, 4E	From mouth upstream to the headwaters including all tributaries.

(2) Instream flows established for the stream management unit described in WAC 173-511-030(1) are as follows:

INSTREAM FLOWS IN THE NISQUALLY RIVER BASIN
(in Cubic Feet per Second)

Month	Day	Lower Reach of the Nisqually River	Bypass Reach of the Nisqually River	Mid Reach of the Nisqually River
		USGS Gage 12-* RM 4.3 RM 4.3	USGS Gage 12-0895-00 RM 21.8	USGS Gage 12-0884-00 RM 32.6-
January	1	900	600	900
	15	900	600	900
February	1	900	600	900
	15	900	600	900
March	1	900	600	900
	15	900	600	900
April	1	900	600	900
	15	900	600	900
May	1	900	600	900
	15	900	600	900
June	1	900	500(closed)	800(closed)
	15	850	450(closed)	800(closed)
July	1	800	400(closed)	800(closed)
	15	800	400(closed)	800(closed)
August	1	800	370(closed)	800(closed)
	15	800	370(closed)	650(closed)
September	1	600	370(closed)	600(closed)
	15	600	370(closed)	600(closed)
October	1	700	550(closed)	700(closed)
	15	700	550(closed)	700(closed)
November	1	700	600	700
	15	700	600	700
December	1	800	600	800
	15	900	600	900

*New gage to be established.

Month	Day	Upper Reach of the Nisqually River USGS Gage 12-0825-00 RM 57.8	Mashel River USGS Gage 12-0870-00 RM 3.25
		January	1
	15	450	100
February	1	450	100
	15	450	100
March	1	450	100
	15	450	100
April	1	450	100
	15	450	100
May	1	450	100
	15	450	80

Month	Day	Upper Reach of the Nisqually River	
		USGS Gage 12-0825-00 RM 57.8	Mashel River USGS Gage 12-0870-00 RM 3.25
June	1	600	80(closed)
	15	650	70(closed)
July	1	550	50(closed)
	15	500	40(closed)
August	1	450	30(closed)
	15	400	30(closed)
September	1	350	20(closed)
	15	300	20(closed)
October	1	300	20(closed)
	15	300	20(closed)
November	1	350	40
	15	400	70
December	1	450	100
	15	450	100

(3) Instream flow hydrographs, as represented in the document entitled "Nisqually River basin instream resource protection program," shall be used for identification of instream flows on those days not specifically identified in WAC 173-511-030(2).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-030, filed 2/2/81.]

WAC 173-511-040 Surface water source limitations to further consumptive appropriations. (1)

The department has determined that (a) certain streams exhibit low summer flows or have a potential for going dry thereby inhibiting anadromous fish passage during critical life stages, and (b) historic flow regimes and current uses of certain other streams indicate that no water is available for additional appropriation. Based upon these determinations the following streams and lakes are closed to further appropriation for the periods indicated:

NEW SURFACE WATER CLOSURES

Stream or Lake Section, Township, and Range of Mouth or Outlet	Tributary to	Period of Closure
Mashel River NE1/4SW1/4 Sec. 29, T16N, R4E and all tributaries	Nisqually River	June 1 - Oct. 31
Red Salmon Creek (Mounts Creek) NE1/4NW1/4 Sec. 33, T19N, R1E and all tributaries	Nisqually River	April 1 - Oct. 31
Clear Creek NE1/4SE1/4 Sec. 21, T18N, R1E and all tributaries	Nisqually River	April 1 - Oct. 31
Tanwax Creek NW1/4NE1/4 Sec.20, T16N, R3E and all tributaries	Nisqually River	April 1 - Oct. 31
McAllister Creek (except Medicine Creek) NW1/4N1/4 Sec. 6, T18N, R1E and all tributaries	Puget Sound	all year
Lake Saint Clair SE1/4NW1/4 Sec. 6, T17N, R1E		all year

NEW SURFACE WATER CLOSURES

Stream or Lake Section, Township, and Range of Mouth or Outlet	Tributary to	Period of Closure
Toboton Creek (above Hopson Road) SW1/4SW1/4 Sec. 19, T16N, R3E and all tributaries	Nisqually River	April 1 - Nov. 30
Lackamas Creek SE1/4SE1/4 Sec. 13, T16N, R2E and all tributaries	Nisqually River	April 1 - Nov. 30
Murray Creek NW1/4NW1/4 Sec. 16, T17N, R2E	Nisqually River	April 1 - Nov. 30
Bypass Reach, Nisqually River NE1/4SE1/4 Sec. 11, T17N, R1E	Puget Sound	June 1 - Oct. 31
Mid Reach, Nisqually River SE1/4NW1/4 Sec. 1, T16N, R2E	Puget Sound	June 1 - Oct. 31

(2) The following stream and lake low flows and closures are adopted confirming surface water source limitations previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050.

EXISTING SURFACE WATER SOURCE LIMITATIONS
CURRENT ADMINISTRATIVE STATUS OF STREAMS AND LAKES
NISQUALLY BASIN, WRIA 11

Stream	Tributary to	Action	Dates
Eaton Creek SE1/4NW1/4 Sec. 6, T17N, R1E	Lake St. Clair	Closure	12/1/53
Harts Lake and outlet streams SW1/4SE1/4 Sec. 1, T16N, R2E	Nisqually River	Low Flow (0.5 cfs bypass)	10/7/44
Horn Creek SW1/4NE1/4 Sec. 1, T16N, R2E	Nisqually River	Closure	7/22/74
Muck Creek and all tributaries SW1/4SW1/4 Sec. 36, T18N, R1E	Nisqually River	Closure	5/26/48
Ohop Creek and all tributaries SW1/4NE1/4 Sec. 25, T16N, R3E	Nisqually River	Closure	2/15/52
Ohop Lake NE1/4SE1/4 Sec. 10, T16N, R1E	Ohop Creek	Lake Level (523 ft)	3/25/66
Thompson Creek and all tributaries SE1/4NE1/4 Sec. 11, T17N, R1E	Nisqually River	Low Flow (1.0 cfs bypass)	11/19/51
Unnamed Stream and all tributaries SW1/4NW1/4 Sec. 11, T15N, R4E	Alder Lake (Nisqually River)	Closure	4/28/64
Unnamed Stream and all tributaries SW1/4SE1/4 Sec. 17, T17N, R2E	Centralia Canal (Nisqually River)	Low Flow (0.75 cfs bypass)	11/19/51

EXISTING SURFACE WATER SOURCE LIMITATIONS
CURRENT ADMINISTRATIVE STATUS OF STREAMS AND LAKES
NISQUALLY BASIN, WRIA 11

Stream	Tributary to	Action	Dates
Unnamed Stream and all tributaries SE1/4SE1/4 Sec. 27, T17N, R2E	Nisqually River	Low Flow (0.50 cfs bypass)	12/6/50
Yelm Creek and all tributaries SW1/4SW1/4 Sec. 12, T.17N, R1E	Nisqually River	Closure	8/7/51

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-040, filed 2/2/81.]

WAC 173-511-050 Ground water. Future ground water withdrawal proposals will not be affected by this chapter unless it is verified that such withdrawal would clearly have an adverse impact upon the surface water system contrary to the intent and objectives of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-050, filed 2/2/81.]

WAC 173-511-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-060, filed 2/2/81.]

WAC 173-511-070 Exemptions. (1) Nothing in this chapter shall affect existing water rights, riparian, appropriative, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric or water storage reservoir or related facilities.

(2) If, upon detailed analysis, appropriate and environmentally sound proposed storage facilities are found to be compatible with this chapter, such facilities may be approved.

(3) Domestic use for a single residence shall be exempt from the provisions of this chapter; provided that, if the cumulative effects of numerous single domestic diversions and/or withdrawals would seriously affect the quantity of water available for instream uses, then only domestic in-house use shall be exempt if no alternative source is available.

(4) Stock-watering use, except that related to feedlots, shall be exempt from the provisions established in this chapter.

(5) Future rights for nonconsumptive uses may be granted.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-070, filed 2/2/81.]

WAC 173-511-080 Future rights. No rights to divert or store public surface waters of the Nisqually River basin, WRIA 11, shall hereafter be granted, except as provided in WAC 173-511-070, which shall conflict with the purpose of this chapter as stated in WAC 173-511-020.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-080, filed 2/2/81.]

WAC 173-511-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-511-090, filed 6/9/88.
Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-090, filed 2/2/81.]

WAC 173-511-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-511-095, filed 6/9/88.]

WAC 173-511-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-511-100, filed 6/9/88.
Statutory Authority: Chapters 90.22 and 90.54 RCW. 81-04-028 (Order DE 80-42), § 173-511-100, filed 2/2/81.]

Chapter 173-513 WAC

INSTREAM RESOURCES PROTECTION PROGRAM—DESCHUTES RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 13

WAC

- 173-513-010 General provision.
- 173-513-020 Purpose.
- 173-513-030 Establishment of instream flows.
- 173-513-040 Surface water source limitations to further consumptive appropriations.
- 173-513-050 Ground water.
- 173-513-060 Lakes.
- 173-513-070 Exemptions.
- 173-513-080 Future rights.
- 173-513-090 Enforcement.
- 173-513-095 Appeals.
- 173-513-100 Regulation review.

WAC 173-513-010 General provision. These rules apply to waters within the Deschutes River basin, WRIA 13, as defined in WAC 173-500-040. This chapter is promulgated pursuant to chapter 90.54 RCW (Water Resources Act of 1971), chapter 90.22 RCW (minimum water flows and levels), and in accordance with chapter 173-500 WAC (water resources management program).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-010, filed 6/24/80.]

WAC 173-513-020 Purpose. The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Deschutes River basin with instream flows and levels necessary to provide protection for wild-life, fish, scenic, aesthetic, environmental values, recreation, navigation, and water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-020, filed 6/24/80.]

WAC 173-513-030 Establishment of instream flows. (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach
12.0800-00 Deschutes River	3.4 Sec. 35-18N-2W	From the confluence of the Deschutes River with Capitol Lake upstream to the Deschutes Falls at river mile 41.

(2) Instream flows established for the stream management unit described in WAC 173-513-030(1) are as follows:

INSTREAM FLOWS IN THE DESCHUTES RIVER BASIN
(in Cubic Feet per Second)

Month	Day	USGS Gage 212-0800-00 Deschutes River
Jan.	1	400
	15	400
Feb.	1	400
	15	400
Mar.	1	400
	15	400
Apr.	1	350
	15	(Closed)

Month	Day	USGS Gage 212-0800-00 Deschutes River
May	1	(Closed)
	15	(Closed)
June	1	(Closed)
	15	(Closed)
July	1	(Closed)
	15	(Closed)
Aug.	1	(Closed)
	15	(Closed)
Sept.	1	(Closed)
	15	(Closed)
Oct.	1	(Closed)
	15	(Closed)
Nov.	1	150
	15	200
Dec.	1	300
	15	400

(3) Instream flow hydrograph, as represented in the document entitled "Deschutes River basin instream resource protection program," shall be used for identification of instream flows on those days not specifically identified in WAC 173-513-030(2).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-030, filed 6/24/80.]

WAC 173-513-040 Surface water source limitations to further consumptive appropriations. (1) The department of ecology, having determined that further consumptive appropriations would harmfully impact instream values, closes the following streams and lakes to further consumptive appropriation for the periods indicated.

New Surface Water Closures

Stream or Lake Section, Township and Range of Mouth or Outlet	Tributary to	Period of Closure
Deschutes River below Deschutes Falls (river mile 41)NW1/4SW1/4 Sec. 26, T. 18N.,R. 2W.	Puget Sound (Budd Inlet)	Apr. 15 to Nov. 1
Deschutes River above Deschutes Falls (river mile 41) and all tributaries of Deschutes River E1/2NE1/4 Sec. 10, T. 15N., R. 3E. (Deschutes Falls)		All year
McLane Creek and all tributaries SW1/4NW1/4 Sec. 33, T. 18N., R. 2W.	Puget Sound (Eld Inlet)	All year
Woodland Creek and all tributaries SW1/4NW1/4 Sec. 19, T. 19N., R. 1W.	Puget Sound (Henderson Inlet)	All year
Long Lake SE1/4NE1/4 Sec. 22, T. 18N., R. 1W.	Woodland Creek	All year
Patterson Lake SE1/4SW1/4 Sec. 35, T. 18N., R. 1W.	Woodland Creek	All year
Hicks Lake NE1/4SW1/4 Sec. 27, T. 18N., R. 1W.	Woodland Creek	All year

(2) The following stream and lake low flows and closures are adopted confirming surface water source limitations previously established administratively under the authority of chapter 90.03 RCW and RCW 75.20.050.

Existing Low Flow Limitations and Closures

Stream Section, Township and Range of Mouth	Tributary to	Action
Percival Creek SW1/4NE1/4 Sec. 22, T. 18N., R. 2W.	Capital Lake	Closure
Unnamed Stream NW1/4NW1/4 Sec. 33, T. 19N., R. 2W.	Puget Sound (Eld Inlet)	Low Flow (1.5 cfs)
Unnamed Stream NW1/4NW1/4 Sec. 25, T. 19N., R. 2W.	Gull Harbor	Low Flow (1.0 cfs)
Woodward Creek SW1/4NW1/4 Sec. 19, T. 19N., R. 1W.	Woodward Bay	Closure

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-040, filed 6/24/80.]

WAC 173-513-050 Ground water. Future ground water withdrawal proposals will not be affected by this chapter unless it is verified that such withdrawal would clearly have an adverse impact upon the surface water system contrary to the intent and objectives of this chapter.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-050, filed 6/24/80.]

WAC 173-513-060 Lakes. In future permitting actions relating to withdrawal of lake waters, lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-060, filed 6/24/80.]

WAC 173-513-070 Exemptions. (1) Nothing in this chapter shall affect water rights, riparian, appropriate, or otherwise existing on the effective date of this chapter, nor shall it affect existing rights relating to the operation of any navigation, hydroelectric, or water storage reservoir or related facilities.

(2) Domestic use for a single residence and stock watering, except that use related to feedlots, shall be exempt from the provisions of this chapter if no alternative source is available. If the cumulative effects of numerous single domestic diversions would seriously affect the quantity of water available for instream uses, then only domestic in-house use shall be exempt.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-070, filed 6/24/80.]

WAC 173-513-080 Future rights. No rights to divert or store public surface waters of the Deschutes River basin, WRIA 13, shall hereafter be granted which shall conflict with the purpose of this chapter as stated in WAC 173-513-020.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-080, filed 6/24/80.]

WAC 173-513-090 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-513-090, filed 6/9/88.
Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-090, filed 6/24/80.]

WAC 173-513-095 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-513-095, filed 6/9/88.]

WAC 173-513-100 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. 88-13-037 (Order 88-11), § 173-513-100, filed 6/9/88.
Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-100, filed 6/24/80.]