

**Chapter 173-501 WAC**  
**INSTREAM RESOURCES PROTECTION PROGRAM—NOOKSACK WATER RESOURCE INVENTORY AREA (WRIA) 1**

Last Update: 5/27/20

**WAC**

|             |  |
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**WAC 173-501-010 General provision.** These rules apply to waters within the Nooksack water resource inventory area (WRIA 1), 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: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-010, filed 12/4/85.]

**WAC 173-501-020 Purpose.** Chapter 90.54 RCW (Water Resources Act of 1971) requires that utilization and management of waters of the state be guided by a number of fundamentals, including:

Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial. (RCW 90.54.020(1))

The quality of the natural environment shall be protected and, where possible, enhanced as follows:

Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. 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. (RCW 90.54.020 (3)(a))

Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. (RCW 90.54.020 (3)(b))

The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Nooksack water resource inventory area with instream flows and levels necessary to provide for preservation of wildlife, fish, scenic, aesthetic, and other environmental values, and navigational values, as well as recreation and water quality.

In administering and enforcing this regulation, the department's actions shall be consistent with the provisions of chapter 90.54 RCW.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-020, filed 12/4/85.]

**WAC 173-501-030 Establishment of instream flows.** (1) Stream management units and associated control stations are established as follows:

**Stream Management Unit Information**

| Control Station No.<br>Stream Management Unit Name | Control Station by River Mile and Section, Township and Range | Stream Management Reach   |
|--|---|---|
| Anderson Creek Gage # WDOE-2109-00                 | 1.4 Section 19 T. 39 N., R. 4 E.                              | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Bells Creek Gage # WDOE-2073-00                    | 0.5 Section 21 T. 39 N., R. 5 E.                              | From confluence with Nooksack River to headwaters, including all tributaries.                                 |
| Bertrand Creek Gage # WDOE-2124-00                 | 1.0 Section 26 T. 40 N., R. 2 E.                              | From U.S./Canada border to confluence with Nooksack River, including all tributaries.                         |
| California Creek Gage # WDOE-2134-00               | 3.0 Section 21 T. 40 N., R. 1 E.                              | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| Canyon Creek Gage # WDOE-2045-00                   | 0.2 Section 35 T. 40 N., R. 6 E.                              | From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                          |
| Canyon Creek at Kulshan Gage # 12-2085-00          | 0.2 Section 27 T. 39 N., R. 5 E.                              | From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                          |
| Cornell Creek Gage # WDOE-2057-00                  | 0.6 Section 1 T. 39 N., R. 6 E.                               | From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                      |
| Dakota Creek near Blaine Gage # 12-2140-00         | 3.5 Section 9 T. 40 N., R. 1 E.                               | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries. |
| Deer Creek Gage # WDOE-2130-50                     | 0.2 Section 28 T. 39 N., R. 2 E.                              | From the confluence with Tenmile Creek to headwaters, including all tributaries.                              |
| Fishtrap Creek at Lynden Gage # 12-2120-00         | 6.9 Section 16 T. 40 N., R. 3 E.                              | From U.S./Canada border to confluence with Nooksack River, including all tributaries.                         |
| Gallop Creek Gage # WDOE-2056-00                   | 0.3 Section 7 T. 39 N., R. 7 E.                               | From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                      |

| Control Station No.<br>Stream Management Unit Name | Control Station by River Mile and Section, Township and Range | Stream Management Reach   |
|--|---|---|
| Hutchinson Creek Gage # WDOE-2101-00               | 1.8<br>Section 36<br>T. 38 N., R. 5 E.                        | From confluence with South Fork Nooksack River to headwaters, including all tributaries.                            |
| Johnson Creek Gage # WDOE-2149-00                  | 0.5<br>Section 35<br>T. 41 N., R. 4 E.                        | From U.S./Canada border to headwaters including all tributaries.  |
| Kendall Creek Gage # 12-2065-00                    | 0.1<br>Section 3<br>T. 39 N., R. 5 E.                         | From the confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                            |
| Maple Creek Gage # WDOE-2059-00                    | 0.8<br>Section 30<br>T. 40 N., R. 6 E.                        | From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                                |
| Nooksack River (at Deming) 12-2105-00              | 36.6<br>Section 31<br>T. 39 N., R. 5 E.                       | From confluence with Smith Creek to confluence of North Fork and Middle Fork Nooksack Rivers.                       |
| Nooksack River (at Ferndale) 12-2131-00            | 5.8<br>Section 29<br>T. 39 N., R. 2 E.                        | From influence of mean annual high tide at low instream flow levels to confluence with, and including, Smith Creek. |
| Nooksack River (Middle Fork) 12-2080-00            | 5.0<br>Section 13<br>T. 38 N., R. 5 E.                        | From confluence with North Fork to headwaters.  |
| Nooksack River (North Fork) 12-2072-00             | 44.1<br>Section 10<br>T. 39 N., R. 5 E.                       | From confluence with Middle Fork to headwaters.   |
| Nooksack River (South Fork) 12-2090-00             | 5.0<br>Section 19<br>T. 38 N., R. 5 E.                        | From confluence with Nooksack River (mainstem) to headwaters.   |
| Porter Creek Gage # WDOE-2084-00                   | 0.7<br>Section 11<br>T. 38 N., R. 5 E.                        | From the confluence with M. Fk. Nooksack R. to headwaters, including all tributaries.                               |
| Racehorse Creek Gage # WDOE-2071-00                | 1.5<br>Section 11<br>T. 39 N., R. 5 E.                        | From confluence with N. Fk. Nooksack River to headwaters, including all tributaries.                                |
| Saar Creek Gage # 12-2155-00                       | 0.2<br>Section 31<br>T. 41 N., R. 5 E.                        | From U.S./Canada border to headwaters, including all tributaries.   |
| Silver Creek Gage # WDOE-2132-00                   | 2.0<br>Section 4<br>T. 38 N., R. 2 E.                         | From confluence with Nooksack River to headwaters, including all tributaries.                                       |
| Skookum Creek near Wickersham Gage # 12-2095-00    | 0.1<br>Section 27<br>T. 37 N., R. 5 E.                        | From confluence with South Fork Nooksack River to headwaters, including all tributaries.                            |
| Smith Creek Gage # WDOE-2111-00                    | 0.8<br>Section 22<br>T. 39 N., R. 4 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                       |
| Sumas River near Sumas Gage # 12-2145-00           | 2.1<br>Section 2<br>T. 41 N., R. 4 E.                         | From U.S./Canada border to headwaters including all tributaries.  |
| Tenmile Creek at Laurel Gage # 12-2129-00          | 4.4<br>Section 13<br>T. 39 N., R. 2 E.                        | From confluence with Nooksack River to headwaters, including all tributaries.                                       |
| Terrell Creek Gage # WDOE-2133-00                  | 2.2<br>Section 31<br>T. 40 N., R. 1 E.                        | From influence of mean annual high tide at low instream flow levels to headwaters, including all tributaries.       |

| Control Station No.<br>Stream Management Unit Name | Control Station by River Mile and Section, Township and Range | Stream Management Reach   |
|--|---|---|
| Wiser Lake Creek<br>Gage #<br>WDOE-2126-00         | 0.7<br>Section 2<br>T. 39 N., R. 2 E.                         | From confluence with Nooksack River to headwaters, including all tributaries. |

(2) Instream flows are established for the stream management units in WAC 173-501-030(1) as follows:

**Instream Flows in the Nooksack WRIA**  
(Instantaneous cubic feet per second)

| Month | Day | WDOE-2109-00<br>Anderson Cr. | WDOE-2073-00<br>Bells Cr. | WDOE-2124-00<br>Bertrand Cr. | WDOE-2134-00<br>California Cr. |
|-------|-----|------------------------------|---------------------------|------------------------------|--------------------------------|
| Jan.  | 1   | 50                           | 4*                        | 90*                          | 40*                            |
|       | 15  | 50                           | 4*                        | 90*                          | 40*                            |
| Feb.  | 1   | 50                           | 4*                        | 90*                          | 40*                            |
|       | 15  | 50                           | 3*                        | 90*                          | 40*                            |
| Mar.  | 1   | 50                           | 2*                        | 90*                          | 40*                            |
|       | 15  | 50                           | 2*                        | 90*                          | 25*                            |
| Apr.  | 1   | 40                           | 3*                        | 80*                          | 18*                            |
|       | 15  | 31                           | 4*                        | 60*                          | 13*                            |
| May   | 1   | 25*                          | 5*                        | 50*                          | 9*                             |
|       | 15  | 20*                          | 6*                        | 40*                          | 6*                             |
| Jun.  | 1   | 16*                          | 6*                        | 33*                          | 4*                             |
|       | 15  | 13*                          | 6*                        | 25*                          | 3*                             |
| Jul.  | 1   | 10*                          | 3*                        | 21*                          | 2*                             |
|       | 15  | 8*                           | 2*                        | 17*                          | 2*                             |
| Aug.  | 1   | 6*                           | 1*                        | 13*                          | 2*                             |
|       | 15  | 6*                           | 1*                        | 13*                          | 2*                             |
| Sep.  | 1   | 6*                           | 1*                        | 13*                          | 2*                             |
|       | 15  | 6*                           | 1*                        | 13*                          | 2*                             |
| Oct.  | 1   | 8*                           | 1*                        | 13*                          | 2*                             |
|       | 15  | 11*                          | 2*                        | 20*                          | 2*                             |
| Nov.  | 1   | 15*                          | 3*                        | 30*                          | 4*                             |
|       | 15  | 20                           | 4*                        | 40*                          | 7*                             |
| Dec.  | 1   | 30                           | 4*                        | 60*                          | 15*                            |
|       | 15  | 50                           | 4*                        | 90*                          | 40*                            |

\* Denotes closure period. No further consumptive rights issued for use during this time.

| Month | Day | WDOE-2045-00<br>Canyon Creek | WDOE-2085-00<br>Canyon (Lk) Cr. | WDOE-2057-00<br>Cornell Creek |
|-------|-----|------------------------------|---------------------------------|-------------------------------|
| Jan.  | 1   | 150                          | 50                              | 20                            |
|       | 15  | 150                          | 50                              | 20                            |
| Feb.  | 1   | 150                          | 50                              | 20                            |
|       | 15  | 150                          | 50                              | 20                            |
| Mar.  | 1   | 150                          | 50                              | 20                            |
|       | 15  | 150                          | 50                              | 20                            |
| Apr.  | 1   | 150                          | 50                              | 20                            |
|       | 15  | 150                          | 50                              | 20                            |
| May   | 1   | 150                          | 50                              | 20                            |
|       | 15  | 150                          | 50                              | 20                            |
| Jun.  | 1   | 150                          | 50                              | 15                            |
|       | 15  | 150                          | 50                              | 9                             |
| Jul.  | 1   | 150*                         | 50*                             | 25*                           |
|       | 15  | 80*                          | 30*                             | 3*                            |
| Aug.  | 1   | 40*                          | 15*                             | 3*                            |
|       | 15  | 40*                          | 10*                             | 3*                            |
| Sep.  | 1   | 40*                          | 10*                             | 3*                            |
|       | 15  | 40*                          | 10*                             | 3*                            |
| Oct.  | 1   | 55*                          | 20*                             | 5*                            |
|       | 15  | 80*                          | 23*                             | 10*                           |

| Month | Day | WDOE-2045-00<br>Canyon Creek | WDOE-2085-00<br>Canyon (Lk) Cr. | WDOE-2057-00<br>Cornell Creek |
|-------|-----|------------------------------|---------------------------------|-------------------------------|
| Nov.  | 1   | 90*                          | 27*                             | 20*                           |
|       | 15  | 110                          | 32                              | 20                            |
| Dec.  | 1   | 130                          | 40                              | 20                            |
|       | 15  | 150                          | 43                              | 20                            |

| Month | Day | 12-2140-00<br>Dakota Creek | WDOE-2130-50<br>Deer Creek | 12-2120-00<br>Fishtrap Cr. |
|-------|-----|----------------------------|----------------------------|----------------------------|
| Jan.  | 1   | 60*                        | 10*                        | 55*                        |
|       | 15  | 60*                        | 10*                        | 55*                        |
| Feb.  | 1   | 60*                        | 10*                        | 55*                        |
|       | 15  | 60*                        | 10*                        | 55*                        |
| Mar.  | 1   | 60*                        | 10*                        | 55*                        |
|       | 15  | 40*                        | 10*                        | 55*                        |
| Apr.  | 1   | 30*                        | 8*                         | 45*                        |
|       | 15  | 20*                        | 6*                         | 35*                        |
| May   | 1   | 15*                        | 5*                         | 30*                        |
|       | 15  | 10*                        | 4*                         | 25*                        |
| Jun.  | 1   | 7*                         | 3*                         | 20*                        |
|       | 15  | 5*                         | 2*                         | 15*                        |
| Jul.  | 1   | 4*                         | 2*                         | 12*                        |
|       | 15  | 3*                         | 1*                         | 10*                        |
| Aug.  | 1   | 3*                         | 1*                         | 8*                         |
|       | 15  | 3*                         | 1*                         | 8*                         |
| Sep.  | 1   | 3*                         | 1*                         | 8*                         |
|       | 15  | 3*                         | 1*                         | 8*                         |
| Oct.  | 1   | 3*                         | 2*                         | 18*                        |
|       | 15  | 4*                         | 2*                         | 20*                        |
| Nov.  | 1   | 5*                         | 3*                         | 30*                        |
|       | 15  | 10*                        | 4*                         | 40*                        |
| Dec.  | 1   | 20*                        | 5*                         | 55*                        |
|       | 15  | 60*                        | 7*                         | 55*                        |

| Month | Day | WDOE-2056-00<br>Gallop Creek | WDOE-2101-00<br>Hutchinson Creek | WDOE-2149-00<br>Johnson Creek | 12-2065-00<br>Kendall Cr. |
|-------|-----|------------------------------|----------------------------------|-------------------------------|---------------------------|
| Jan.  | 1   | 12                           | 60                               | 60*                           | 10*                       |
|       | 15  | 12                           | 60                               | 60*                           | 10*                       |
| Feb.  | 1   | 12                           | 60                               | 60*                           | 10*                       |
|       | 15  | 12                           | 60                               | 60*                           | 10*                       |
| Mar.  | 1   | 12                           | 60                               | 60*                           | 10*                       |
|       | 15  | 12                           | 60                               | 60*                           | 10*                       |
| Apr.  | 1   | 12                           | 60                               | 60*                           | 10*                       |
|       | 15  | 12                           | 60                               | 45*                           | 10*                       |
| May   | 1   | 12                           | 60                               | 35*                           | 10*                       |
|       | 15  | 12                           | 60                               | 25*                           | 10*                       |
| Jun.  | 1   | 12                           | 60                               | 20*                           | 10*                       |
|       | 15  | 12                           | 60                               | 15*                           | 10*                       |
| Jul.  | 1   | 12*                          | 60*                              | 12*                           | 10*                       |
|       | 15  | 8*                           | 40*                              | 9*                            | 6*                        |
| Aug.  | 1   | 6*                           | 25*                              | 9*                            | 4*                        |
|       | 15  | 5*                           | 15*                              | 9*                            | 3*                        |
| Sep.  | 1   | 5*                           | 15*                              | 9*                            | 3*                        |
|       | 15  | 5*                           | 15*                              | 9*                            | 3*                        |
| Oct.  | 1   | 5*                           | 25*                              | 9*                            | 5*                        |
|       | 15  | 5*                           | 30*                              | 9*                            | 6*                        |
| Nov.  | 1   | 8*                           | 35*                              | 13*                           | 7*                        |
|       | 15  | 12                           | 40                               | 20*                           | 8*                        |
| Dec.  | 1   | 12                           | 50                               | 30*                           | 9*                        |
|       | 15  | 12                           | 60                               | 60*                           | 10*                       |

| Month | Day | WDOE-2059-00<br>Maple Creek | 12-2105-00<br>Nooksack R.<br>(at Deming) | 12-2131.00<br>Nooksack R.<br>(at Ferndale) |
|-------|-----|-----------------------------|--|--|
| Jan.  | 1   | 20                          | 2050                                     | 2900                                       |
|       | 15  | 20                          | 2050                                     | 2900                                       |

| Month | Day | WDOE-2059-00<br>Maple Creek | 12-2105-00<br>Nooksack R.<br>(at Deming) | 12-2131.00<br>Nooksack R.<br>(at Ferndale) |
|-------|-----|-----------------------------|--|--|
| Feb.  | 1   | 20                          | 2150                                     | 2900                                       |
|       | 15  | 30                          | 2350                                     | 2900                                       |
| Mar.  | 1   | 30                          | 2350                                     | 2900                                       |
|       | 15  | 30                          | 2350                                     | 2900                                       |
| Apr.  | 1   | 30                          | 2350                                     | 2900                                       |
|       | 15  | 30                          | 2350                                     | 2900                                       |
| May   | 1   | 30                          | 3325                                     | 2900                                       |
|       | 15  | 30                          | 3400                                     | 3500                                       |
| Jun.  | 1   | 30                          | 3400                                     | 3500                                       |
|       | 15  | 30                          | 3400                                     | 3500                                       |
| Jul.  | 1   | 20*                         | 3400                                     | 3500                                       |
|       | 15  | 20*                         | 2950                                     | 3000                                       |
| Aug.  | 1   | 20*                         | 1700                                     | 2400                                       |
|       | 15  | 10*                         | 1700                                     | 1900                                       |
| Sep.  | 1   | 10*                         | 1700                                     | 1800                                       |
|       | 15  | 10*                         | 1700                                     | 1700                                       |
| Oct.  | 1   | 20*                         | 1700                                     | 1700                                       |
|       | 15  | 20*                         | 2050                                     | 2050                                       |
| Nov.  | 1   | 20*                         | 2050                                     | 2300                                       |
|       | 15  | 20                          | 2050                                     | 2500                                       |
| Dec.  | 1   | 20                          | 2050                                     | 2900                                       |
|       | 15  | 20                          | 2050                                     | 2900                                       |

| Month | Day | 12-2080-00<br>Nooksack<br>River<br>(Middle Fork) | 12-2072-00<br>Nooksack River<br>(North Fork<br>nr. Deming) | 12-2090-00<br>Nooksack<br>River<br>(South Fork) |
|-------|-----|--|--|---|
| Jan.  | 1   | 275  | 1100   | 650   |
|       | 15  | 275  | 1100   | 650   |
| Feb.  | 1   | 380  | 1100   | 650   |
|       | 15  | 380  | 1100   | 850   |
| Mar.  | 1   | 380  | 1100   | 850   |
|       | 15  | 380  | 1100   | 850   |
| Apr.  | 1   | 380  | 1100   | 850   |
|       | 15  | 380  | 1100   | 850   |
| May   | 1   | 380  | 1100   | 850   |
|       | 15  | 450  | 2000   | 850   |
| Jun.  | 1   | 525  | 2000   | 850   |
|       | 15  | 525  | 2000   | 850   |
| Jul.  | 1   | 525  | 2000   | 850*  |
|       | 15  | 400  | 2000   | 550*  |
| Aug.  | 1   | 275  | 1100   | 300*  |
|       | 15  | 275  | 1100   | 300*  |
| Sep.  | 1   | 275  | 1100*  | 300*  |
|       | 15  | 275  | 1100*  | 300*  |
| Oct.  | 1   | 275  | 1100*  | 300*  |
|       | 15  | 275  | 1100*  | 650*  |
| Nov.  | 1   | 275  | 1100*  | 650   |
|       | 15  | 275  | 1100   | 650   |
| Dec.  | 1   | 275  | 1100   | 650   |
|       | 15  | 275  | 1100   | 650   |

| Month | Day | WDOE-<br>2084-00<br>Porter Creek | WDOE-<br>2071-00<br>Racehorse Cr. | WDOE-<br>2155-00<br>Saar Creek |
|-------|-----|----------------------------------|-----------------------------------|--------------------------------|
| Jan.  | 1   | 10                               | 60                                | 35*                            |
|       | 15  | 10                               | 60                                | 35*                            |
| Feb.  | 1   | 10                               | 60                                | 35*                            |
|       | 15  | 10                               | 60                                | 35*                            |
| Mar.  | 1   | 10                               | 60                                | 35*                            |
|       | 15  | 10                               | 60                                | 35*                            |
| Apr.  | 1   | 10                               | 60                                | 35*                            |
|       | 15  | 10                               | 80                                | 35*                            |
| May   | 1   | 10                               | 80                                | 35*                            |
|       | 15  | 10                               | 90                                | 35*                            |
| Jun.  | 1   | 10                               | 90                                | 35*                            |
|       | 15  | 10                               | 90                                | 35*                            |

| Month | Day | WDOE-2084-00<br>Porter Creek | WDOE-2071-00<br>Racehorse Cr. | WDOE-2155-00<br>Saar Creek |
|-------|-----|------------------------------|-------------------------------|----------------------------|
| Jul.  | 1   | 10*                          | 50*                           | 22*                        |
|       | 15  | 6*                           | 35*                           | 15*                        |
| Aug.  | 1   | 3*                           | 20*                           | 9*                         |
|       | 15  | 3*                           | 20*                           | 6*                         |
| Sep.  | 1   | 3*                           | 20*                           | 6*                         |
|       | 15  | 3*                           | 20*                           | 6*                         |
| Oct.  | 1   | 3*                           | 20*                           | 12*                        |
|       | 15  | 6*                           | 30*                           | 14*                        |
| Nov.  | 1   | 10*                          | 35*                           | 17*                        |
|       | 15  | 10                           | 40                            | 19*                        |
| Dec.  | 1   | 10                           | 47                            | 23*                        |
|       | 15  | 10                           | 55                            | 35*                        |

| Month | Day | WDOE-2132-00<br>Silver Creek | 12-2095-00<br>Skookum Cr. | WDOE-2111-00<br>Smith Creek |
|-------|-----|------------------------------|---------------------------|-----------------------------|
| Jan.  | 1   | 12                           | 115                       | 40                          |
|       | 15  | 12                           | 115                       | 40                          |
| Feb.  | 1   | 12                           | 115                       | 40                          |
|       | 15  | 12                           | 115                       | 40                          |
| Mar.  | 1   | 12                           | 115                       | 40                          |
|       | 15  | 12                           | 115                       | 40                          |
| Apr.  | 1   | 12                           | 115                       | 40                          |
|       | 15  | 12                           | 115                       | 60                          |
| May   | 1   | 12*                          | 115                       | 60*                         |
|       | 15  | 9*                           | 115                       | 60*                         |
| Jun.  | 1   | 7*                           | 115                       | 60*                         |
|       | 15  | 6*                           | 115                       | 40*                         |
| Jul.  | 1   | 4*                           | 115*                      | 35*                         |
|       | 15  | 3*                           | 66*                       | 25*                         |
| Aug.  | 1   | 3*                           | 66*                       | 15*                         |
|       | 15  | 3*                           | 66*                       | 10*                         |
| Sep.  | 1   | 3*                           | 66*                       | 10*                         |
|       | 15  | 3*                           | 66*                       | 10*                         |
| Oct.  | 1   | 4*                           | 66*                       | 15*                         |
|       | 15  | 4*                           | 80*                       | 20*                         |
| Nov.  | 1   | 6*                           | 115*                      | 23*                         |
|       | 15  | 10                           | 115                       | 25                          |
| Dec.  | 1   | 12                           | 115                       | 30                          |
|       | 15  | 12                           | 115                       | 35                          |

| Month | Day | 12-2145-00<br>Sumas River | 12-2129-00<br>Tenmile Cr. | WDOE-2133-00<br>Terrell Cr. | WDOE-2126-00<br>Wiser Lk. Cr. |
|-------|-----|---------------------------|---------------------------|-----------------------------|-------------------------------|
| Jan.  | 1   | 100*                      | 40*                       | 12                          | 11                            |
|       | 15  | 100*                      | 40*                       | 12                          | 11                            |
| Feb.  | 1   | 100*                      | 40*                       | 12                          | 11                            |
|       | 15  | 100*                      | 40*                       | 12                          | 11                            |
| Mar.  | 1   | 100*                      | 40*                       | 12                          | 11                            |
|       | 15  | 100*                      | 40*                       | 12                          | 11                            |
| Apr.  | 1   | 100*                      | 40*                       | 12                          | 9                             |
|       | 15  | 100*                      | 40*                       | 12                          | 7                             |
| May   | 1   | 70*                       | 30*                       | 8*                          | 6*                            |
|       | 15  | 60*                       | 22*                       | 5*                          | 5*                            |
| Jun.  | 1   | 40*                       | 17*                       | 4*                          | 4*                            |
|       | 15  | 35*                       | 12*                       | 3*                          | 3*                            |
| Jul.  | 1   | 25*                       | 10*                       | 2*                          | 2*                            |
|       | 15  | 20*                       | 7*                        | 2*                          | 2*                            |
| Aug.  | 1   | 20*                       | 5*                        | 2*                          | 2*                            |
|       | 15  | 20*                       | 5*                        | 2*                          | 2*                            |
| Sep.  | 1   | 20*                       | 5*                        | 2*                          | 2*                            |
|       | 15  | 20*                       | 6*                        | 2*                          | 2*                            |
| Oct.  | 1   | 20*                       | 7*                        | 2*                          | 2*                            |
|       | 15  | 20*                       | 10*                       | 2*                          | 2*                            |
| Nov.  | 1   | 35*                       | 15*                       | 3*                          | 3*                            |
|       | 15  | 60*                       | 20*                       | 5                           | 6                             |

| Month | Day | 12-2145-00<br>Sumas River | 12-2129-00<br>Tenmile Cr. | WDOE-<br>2133-00<br>Terrell Cr. | WDOE-<br>2126-00<br>Wiser Lk. Cr. |
|-------|-----|---------------------------|---------------------------|---------------------------------|-----------------------------------|
| Dec.  | 1   | 80*                       | 30*                       | 7                               | 8                                 |
|       | 15  | 100*                      | 40*                       | 12                              | 11                                |

(3) Instream flow hydrographs, as represented in Appendix A of the document entitled Nooksack Instream Resources Protection Program, shall be used for identification of instream flows on those days not specifically identified in WAC 173-501-030(2).

(4) Future consumptive water right permits issued hereafter for diversion of surface water in the Nooksack WRIA and perennial tributaries shall be expressly subject to instream flows established in WAC 173-501-030 (1) through (3) as measured at the appropriate gage, preferably the nearest one downstream and at all other downstream control stations, except for those uses described in WAC 173-501-070 (1) through (3).

(5) Projects that would reduce the flow in a section of stream's length (e.g., hydroelectric projects that withdraw streamflow from some length of the channel) are considered consumptive with respect to the affected stream reach. Such projects will be subject to instream flow requirements as specified by the department. These flows will be those established in WAC 173-501-030 (1) through (3) and WAC 173-501-040, or may be flows specifically tailored to that particular project and stream reach. When studies are required to determine such reach and project-specific flow requirements, the department will require the project proponent to conduct such studies in consultation with affected state and federal agencies and Indian tribes.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-030, filed 12/4/85.]

**WAC 173-501-040 Surface water source limitations to further consumptive appropriation.** (1) The following table indicates the status of streams, tributaries and lakes affected by this chapter.

| Source Name                         | Tributary To           | Former Administrative Status | Status Under Regulation | Period of Closure | Flow Established   |
|-------------------------------------|------------------------|------------------------------|-------------------------|-------------------|--------------------|
| Anderson Creek                      | Nooksack River         | low flow                     | partial year closure    | May 1-Oct. 31     | WAC 173-501-030(2) |
| Bells Creek                         | North Fork Nooksack    | open                         | closure                 | year round        | WAC 173-501-030(2) |
| Bertrand Creek                      | Nooksack River         | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Black Slough                        | Nooksack - South Fork  | low flow                     | low flow                |                   |                    |
| California Creek                    | Drayton Harbor         | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Canyon Creek                        | North Fork Nooksack    | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Canyon (Lake) Creek                 | Middle Fork Nooksack   | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Chuckanut Creek                     | Chuckanut Bay          | low flow                     | closure                 | year round        | natural flow       |
| Colony Creek (incl. Whitehall)      | Samish Bay             | open                         | closure                 | year round        | natural flow       |
| Cornell Creek                       | North Fork Nooksack    | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Dakota Creek                        | Drayton Harbor         | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Deer Creek                          | Barrett Lake (Tenmile) | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Fishtrap Creek (incl. Double Ditch) | Nooksack River         | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Fourmile Creek                      | Tenmile Creek          | closure                      | closure                 | year round        |                    |
| Gallop Creek                        | North Fork Nooksack    | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Hutchinson Creek                    | South Fork Nooksack    | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Johnson Creek                       | Sumas River            | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Kamm Ditch/Stickney Slough          | Nooksack River         | closure                      | closure                 | year round        | natural flow       |
| Kendall Creek                       | North Fork Nooksack    | open                         | closure                 | year round        | WAC 173-501-030(2) |

| Source Name                              | Tributary To         | Former Administrative Status | Status Under Regulation | Period of Closure | Flow Established   |
|--|----------------------|------------------------------|-------------------------|-------------------|--------------------|
| Maple Creek                              | North Fork Nooksack  | open                         | closure                 | July 1-Oct. 31    | WAC 173-501-030(2) |
| Nooksack River - mainstem                | Bellingham Bay       | low flow                     | minimum flow (new flow) |                   | WAC 173-501-030(2) |
| Nooksack River - Middle Fk.              | Nooksack River       | low flow                     | minimum flow (new flow) |                   | WAC 173-501-030(2) |
| Nooksack River - North Fk.               | Nooksack River       | low flow                     | partial year closure    | Sept. 1-Oct. 31   | WAC 173-501-030(2) |
| Nooksack River - South Fk.               | Nooksack River       | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Oyster Creek                             | Samish Bay           | open                         | closure                 | year round        | natural flow       |
| Padden Creek                             | Bellingham Bay       | open                         | closure                 | year round        | natural flow       |
| Porter Creek                             | Middle Fork Nooksack | open                         | partial year closure    | July 1-Oct. 1     | WAC 173-501-030(2) |
| Racehorse Creek                          | North Fork Nooksack  | open                         | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Saar Creek                               | Vedder Canal-Canada  | open                         | closure                 | year round        | WAC 173-501-030(2) |
| Saxon Creek                              | South Fork Nooksack  | open                         | closure                 | year round        | natural flow       |
| Silver Creek                             | Nooksack River       | low flow                     | partial year closure    | May 1-Oct. 31     | WAC 173-501-030(2) |
| Skookum Creek                            | South Fork Nooksack  | low flow                     | partial year closure    | July 1-Oct. 31    | WAC 173-501-030(2) |
| Smith Creek                              | Nooksack River       | low flow                     | partial year closure    | May 1-Oct. 31     | WAC 173-501-030(2) |
| Squalicum Creek                          | Bellingham Bay       | closure                      | closure                 | year round        |                    |
| Sumas River                              | Vedder Canal-Canada  | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Tenmile Creek                            | Nooksack River       | closure                      | closure                 | year round        | WAC 173-501-030(2) |
| Terrell Creek                            | Birch Bay            | open                         | partial year closure    | May 1-Oct. 31     | WAC 173-501-030(2) |
| Thompson Creek                           | Glacier Cr./N. Fk.   | open                         | partial year closure    | July 1-Oct. 31    | natural flow       |
| Unnamed Stream - Elder Ditch/Scott Ditch | Nooksack River       | low flow                     | low flow                |                   |                    |
| Unnamed stream - White Creek             | Colony Creek         | closure                      | closure                 |                   |                    |
| Whatcom Creek*                           | Bellingham Bay       | open                         | closure                 | year round        | natural flow       |
| Wiser Lake Creek                         | Nooksack River       | low flow                     | partial year closure    | May 1-Oct. 31     | WAC 173-501-030(2) |
| Lummi Indian Reservation Streams         |                      | closure                      | closure                 |                   |                    |
| Barrett Lake                             | Tenmile Creek        | closure                      | closure                 |                   | NA                 |
| Green Lake                               | Fourmile Creek       | closure                      | closure                 |                   | NA                 |
| Lake Terrell                             | Terrell Creek        | closure                      | closure                 |                   | NA                 |
| Lake Whatcom**                           | Whatcom Creek        | court-ordered lake level     | closure                 | year round        |                    |
| Wiser Lake                               | Wiser Lake Creek     | closure                      | closure                 |                   | NA                 |

For streams listed as "natural flow," insufficient data are available to develop instream flows outside the closure period. Water right applications for consumptive use will be considered on a case by case basis in consultation with the departments of fisheries and game; tribes will also be notified.

Streams which are not specifically listed in this regulation are affected by the regulation if they are tributary to streams or lakes listed herein; otherwise such streams are not affected.

\*No exemptions. See WAC 173-501-070(2).

\*\*Lake Whatcom and its tributaries are closed to all further consumptive appropriation; however, any water right applications for consumptive use which were on file with the department of ecology on August 7, 1985 shall be exempt from the closure through the period extending one year from the effective date of this chapter.

(2) When a project (as described in WAC 173-501-030(5)) is proposed on a stream that is closed to further appropriations, the department shall deny the water right application unless the project

proponent can adequately demonstrate that the project does not conflict with the intent of the closure.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-040, filed 12/4/85.]

**WAC 173-501-050 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: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-050, filed 12/4/85.]

**WAC 173-501-060 Groundwater.** If department investigations determine that there is significant hydraulic continuity between surface water and the proposed groundwater source, any water right permit or certificate issued shall be subject to the same conditions as affected surface waters. If department investigations determine that withdrawal of groundwater from the source aquifers would not interfere with stream flow during the period of stream closure or with maintenance of minimum instream flows, then applications to appropriate public groundwaters may be approved.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-060, filed 12/4/85.]

**WAC 173-501-065 Permit-exempt groundwater for future domestic uses.** (1) For the purposes of this section:

(a) "New permit-exempt domestic wells" are wells for groundwater withdrawals exempt from permitting under RCW 90.44.050 for the purposes of indoor domestic water use and outdoor domestic water use.

(b) "Indoor domestic water use" means potable water to satisfy the domestic needs of a household, including water used for drinking, bathing, sanitary purposes, cooking, laundering, and other incidental uses.

(c) "Outdoor domestic water use" means water used for noncommercial lawns and gardens.

(d) "Subsistence gardening" means food cultivation for personal use by residents of the home.

(2) The requirements and limits in this section apply to new permit-exempt domestic wells constructed after the effective date of this rule amendment.

(3) Consistent with the provisions of RCW 90.94.020(5), a city or county issuing a building permit under RCW 19.27.097 (1)(c), or approving a subdivision under chapter 58.17 RCW, in this WRIA must:

(a) Record the limitations as described in subsection (5) of this section with the property title;

(b) Collect the applicable fee, as described in subsection (4) of this section;

(c) Record the number of building permits issued under chapter 19.27 RCW or subdivision approvals issued under chapter 58.17 RCW subject to the provisions of this section;

(d) Annually transmit to the department three hundred fifty dollars of each fee collected under this subsection; and

(e) Annually transmit an accounting of building permits and subdivision approvals subject to the provisions of this section to the department.

(4) Consistent with the provisions of RCW 90.94.020(5), an applicant for a building permit shall pay a fee of five hundred dollars to the permitting authority.

(5) The department establishes a conservation standard for withdrawals from new permit-exempt domestic wells as follows:

(a) Withdrawals from a new permit-exempt domestic well(s) serving a single connection are limited as follows:

(i) Indoor domestic water use shall not exceed five hundred gallons per day; and

(ii) Outdoor domestic water use shall be limited to an area not to exceed a total of one-twelfth acre, or three thousand six hundred thirty square feet. Outdoor domestic water use is in addition to indoor domestic water use set forth in (a)(i) of this subsection.

(b) Withdrawals from a new permit-exempt domestic well(s) serving a group domestic system that qualifies for the group domestic permit exemption under RCW 90.44.050 are limited as follows:

(i) Indoor domestic water use shall not exceed five hundred gallons per day for each connection, and shall not exceed a total of three thousand gallons per day for the entire group; and

(ii) Outdoor domestic water use shall be limited to an area not to exceed a total of one-twelfth acre, or three thousand six hundred thirty square feet, for each connection, and shall be limited to an area not to exceed a total of one-half acre for the entire group. Outdoor domestic water use is in addition to indoor domestic water use set forth in (b)(i) of this subsection.

(c) Upon the issuance of a drought emergency order under RCW 43.83B.405, withdrawals from new permit-exempt domestic wells may be curtailed by the department, except indoor domestic water use and withdrawals to maintain up to one-twelfth acre for each connection for noncommercial subsistence gardening purposes.

(d) The withdrawal limits defined in this subsection supersede the maximum annual average withdrawal limits specified in RCW 90.94.020.

(e) The department reserves the right to require metering and reporting of water use for domestic users as provided for under existing authorities. This includes, but is not limited to, RCW 90.44.050 and 90.44.250, and the provisions in chapter 173-173 WAC.

(f) Under all circumstances, the water use limits specified under RCW 90.44.050 shall not be exceeded.

[Statutory Authority: Chapters 90.94, 90.22, 90.54, 90.03, 90.44, 43.27A, 43.21B, 18.104 RCW, and RCW 43.21A.080. WSR 20-12-041 (Order 19-03), § 173-501-065, filed 5/27/20, effective 6/27/20.]

**WAC 173-501-070 Exemptions.** (1) Nothing in this chapter shall affect existing water rights, perfected riparian rights, federal Indian and non-Indian reserved rights, 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) Single domestic surface water use, (including up to one-half acre lawn and garden irrigation and associated noncommercial stockwatering) shall be exempt from the provisions established in this chapter, except that Whatcom Creek is closed to any further appropriation, including otherwise exempted single domestic use. For all other streams, when the cumulative impact of single domestic diversions begins to significantly affect the quantity of water available for in-stream uses, then any water rights issued after that time shall be issued for in-house use only, if no alternative source is available.

(3) Nonconsumptive uses which are compatible with the intent of this chapter may be approved.

(4) New interruptible uses may be approved from streams regulated under WAC 173-501-040 if the department determines through the water right appropriation procedure under chapter 90.03 RCW that the proposed use is consistent with:

(a) The intent of chapter 90.94 RCW to offset potential impacts to instream flows associated with permit-exempt domestic water use; or

(b) Applicable laws and restores and enhances streamflows.

[Statutory Authority: Chapters 90.94, 90.22, 90.54, 90.03, 90.44, 43.27A, 43.21B, 18.104 RCW, and RCW 43.21A.080. WSR 20-12-041 (Order 19-03), § 173-501-070, filed 5/27/20, effective 6/27/20. Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-070, filed 12/4/85.]

**WAC 173-501-080 Policy statement for future permitting actions.**

(1) No rights to divert or store public surface waters of WRIA 1 shall hereafter be granted which shall conflict with the purpose of this chapter except as provided in RCW 90.54.020 (3)(a).

(2) Consistent with the provisions of chapter 90.54 RCW, it is the policy of the department to preserve an appropriate minimum in-stream flow in all perennial streams and rivers as well as the water levels in all lakes in the Nooksack WRIA by encouraging the use of alternate sources of water which include (a) groundwater, (b) storage water, or (c) acquisition of existing water rights.

[Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-080, filed 12/4/85.]

**WAC 173-501-090 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. WSR 88-13-037 (Order 88-11), § 173-501-090, filed 6/9/88. Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-090, filed 12/4/85.]

**WAC 173-501-095 Appeals.** All final written decisions of the department of ecology pertaining to permits, regulatory orders, and re-

lated 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. WSR 88-13-037 (Order 88-11), § 173-501-095, filed 6/9/88.]

**WAC 173-501-100 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. WSR 88-13-037 (Order 88-11), § 173-501-100, filed 6/9/88. Statutory Authority: RCW 90.54.020 (3)(a) and 90.54.040 (1) and (2). WSR 85-24-073 (Order 85-19), § 173-501-100, filed 12/4/85.]