

# Frequently Asked Questions:

## WRIA 1 Rulemaking Amendment to Chapter 173-501 WAC



The Nooksack River

### More information

Visit our [Nooksack rule implementation webpage](https://ecology.wa.gov/NooksackRuleUpdate):  
<https://ecology.wa.gov/NooksackRuleUpdate>

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### ADA accommodations

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### Background

Ecology amended [Chapter 173-501 WAC, Instream Resources Protection Program - Nooksack Water Resource Inventory Area \(WRIA\) 1](#) in May 2020 to meet the requirements in RCW 90.94.020. Ecology amended the rule to:

- Add flexibility for projects that retime high flows for instream resource benefits.
- Establish domestic permit-exempt groundwater withdrawal limits for new users.
- Make minor technical corrections.

Ecology prepared a preliminary draft in April 2019, and a draft rule in November 2019. The public feedback Ecology received on the preliminary draft and proposed draft rule amendment language helped develop the final rule amendment language. The rule amendment became effective on June 27, 2020. The amended rule, supporting documentation, and other information is available online at Ecology's [WRIA 1 rulemaking webpage](#) at: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-501>.

## Frequently Asked Questions

### Who do the new permit-exempt withdrawal limits apply to?

The new withdrawal limits only apply to new homes using new permit-exempt wells for their indoor and outdoor domestic use.

The new withdrawal limits apply to:

- Residential building permit applicants receiving a building permit for a new home on or after **June 27, 2020, AND** Using a permit-exempt well drilled on or after **June 27, 2020** for their domestic supply for the new home.

The withdrawal limits *do not* apply to:

- Existing homeowners.
- Those with a building permit approved *before* June 27, 2020.
- Those using a well drilled *before* June 27, 2020.

### What are the new domestic withdrawal limits?

These are the new indoor and outdoor domestic use limits:

	Indoor Domestic	Outdoor Domestic
Single	500 gallons per day	1/12 acre (3,630 square feet)
Group	500 gallons per day per connection (maximum of 3,000 gpd for entire group)	1/12 acre per connection (maximum of ½ acre total across the entire group)
Drought	No change	Same limits but for subsistence gardening only

### How will I know if the withdrawal limits apply to me?

If you are building a new home, the county issuing your building permit (Whatcom or Skagit) should notify you. This information will also be recorded on your property title.

### If I'm buying an existing home, how do I know if the limits apply to the property?

The withdrawal limits are legally required to be recorded on the property title. You can also look at the date the house was built and the well was drilled to determine if the limits apply.

**What do you mean by “indoor domestic water use” and “outdoor domestic water use”?**

These terms are defined in the rulemaking amendment. The amended section of WAC 173-501-065(1):

*(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 non-commercial lawns and gardens.*

**Who is affected during a drought curtailment?**

The new withdrawal limits include a drought curtailment limit that Ecology may trigger in a declared drought. The drought curtailment limit applies to residential building permits issued for a new home on or after June 27, 2020 that use a permit-exempt well drilled on or after June 27, 2020 for their domestic supply. During a drought, Ecology may limit these homeowners to using their permit-exempt wells for only indoor use and for non-commercial subsistence gardening. During these times, other outdoor domestic water use, such as watering your lawn, cannot occur. Other groundwater permit-exempt purposes – stockwatering and industrial – are not affected by the rule amendment or a drought declaration.

**How will I know if I need to curtail my outdoor domestic water use?**

During a declared drought, Ecology may provide notice of a curtailment through web notifications, public announcements, mail, and email.

**Why did you amend this rule?**

State law required Ecology to amend this rule. The state Legislature passed chapter 90.94 RCW in 2018. This law required Ecology to complete a rulemaking if a locally developed watershed plan update was not approved and adopted by February 1, 2019. Despite great effort, the local WRIA 1 planning group was unable to meet this deadline. As a result, Ecology was required to adopt a rule by August 1, 2020 that met the requirements of chapter 90.94 RCW.

**What is Ecology’s authority to establish withdrawal limits for new homes using new permit-exempt wells?**

RCW 90.94.020 required Ecology to conduct rulemaking to meet the requirements of the law. This included considering standards for water use quantities less than the quantities authorized under RCW 90.44.050, or more or less than authorized under RCW 90.94.020(5) for domestic withdrawals exempt from permitting. The law also allowed Ecology to consider specific conservation requirements for new domestic water users, per RCW 90.94.020(4)(d)(ii)-(iii).

**What does it mean to retime high flows for instream resource benefits?**

The rule amendment includes an exemption for retiming high flows for instream resource benefits. During certain times of the year, actual streamflows can be far above what is needed by fish and for a healthy stream. Projects that retime flows save a portion of this excess water and release it to the stream during lower streamflow periods when it is needed most.

**Are there new fees?**

No, the rule amendment did not change any fees. Existing fees, such as those associated with well drilling, permitting, and the \$500 fee required under RCW 90.94.020 remain unchanged.

**Are you changing laws about metering domestic groundwater permit-exempt wells?**

No. Existing authorities, including RCW 90.44.050, RCW 90.44.250, and chapter 173-173 WAC, specify meter laws and rules already in place in Washington. Ecology is not changing any of these.

**Does this rule amendment affect stockwatering or industrial groundwater permit-exempt uses?**

No. There are no changes to the quantities listed in RCW 90.44.050 for stockwatering or industrial purposes.

**Where can I find more information about offset and NEB projects?**

The amendment’s rulemaking documentation, including the Rule Supporting Document, provides information on offset and Net Ecological Benefit (NEB) projects and actions. These documents are available on Ecology’s [WRIA 1 rulemaking webpage](https://ecology.wa.gov/WRIA1Rulemaking) at:

<https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-501>

**Where can I find more information on implementation of the rule amendment?**

More information is available online at <https://ecology.wa.gov/NooksackRuleUpdate>



*A map of Water Resource Inventory Area (WRIA) 1: Nooksack. The rulemaking amendment to chapter 173-501 WAC affects the U.S. (Washington State) portion of WRIA 1.*