



DEPARTMENT OF
ECOLOGY
State of Washington

**Rule Implementation Plan
Chapter 173-501 WAC, Instream
Resources Protection Program—
Nooksack Water Resource Inventory
Area (WRIA) 1**

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Publication and Contact Information

This document is available on the Department of Ecology's website at:
<https://fortress.wa.gov/ecy/publications/summarypages/2011079.html>

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To request ADA accommodation including materials in a format for the visually impaired, contact Ecology by phone at 360-407-6831 or email at ecyadacoordinator@ecy.wa.gov, or visit <https://ecology.wa.gov/accessibility>. For Relay Service or TTY call 711 or 877-833-6341.

Implementation Plan

Chapter 173-501 WAC

**Instream Resources Protection Program—Nooksack
Water Resource Inventory Area (WRIA) 1**

Water Resources Program

Washington State Department of Ecology

Olympia, Washington

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Table of Contents

	<u>Page</u>
Purpose.....	1
Introduction.....	2
Implementation and Enforcement.....	4
Informing and Educating Persons Affected by the Rule	5
Promoting and Assisting Voluntary Compliance	6
Evaluating the Rule.....	7
Training and Informing Ecology Staff.....	8
List of Supporting Documents that May Need to be Written or Revised	9
More Information.....	10
Contact Information	10

Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

On May 27, 2020, Ecology adopted amendments to chapter 173-501 WAC Instream Resources Protection Program—Nooksack Water Resource Inventory Area (WRIA) 1 (AO #19-03). The purpose of this rule amendment implementation plan is to inform those who must comply with chapter 173-501 WAC about how Ecology intends to:

- Implement and enforce the rule amendment.
- Inform and educate persons affected by the rule amendment.
- Promote and assist voluntary compliance for the rule amendment.
- Evaluate the rule amendment.
- Train and inform Ecology staff about the rule amendment.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the rule amendment.
- Other resources where more information about the rule amendment is available.
- Contact information for Ecology employees who can answer questions about the rule amendment implementation.

Implementation and Enforcement

Implementation of the amended rule occurs through Ecology's Headquarters, Northwest Regional Office, and Bellingham Field Office.

Implementation strategies consist of:

- Technical assistance
- Compliance and enforcement
- Data collection and management
- Water right permitting
- Education and outreach (see next section)

Technical Assistance

Existing Ecology Headquarters (HQ) and Northwest Regional Office (NWRO) staff, including those located at the Bellingham Field Office (BFO), will provide technical assistance for local jurisdictions, and those affected by the rule amendment. Specifically:

- HQ and NWRO staff will provide technical assistance to Whatcom and Skagit Counties, as well as provide information and technical assistance to citizens, developers, homebuilders, realtors, and other interested parties. Materials, including an updated Frequently Asked Questions (FAQ) informational sheet, a Focus Sheet for potential new residential building applicants using a new permit-exempt well, and informal guidance for county staff on the rule amendment, will include information on the amended rule and new conservation standards withdrawal limits set forth in WAC 173-501-065.
- HQ and NWRO staff will provide technical assistance to Whatcom and Skagit Counties to record relevant water conservation standards on property titles, consistent with the limits in WAC 173-501-065, and consistent with Ecology's Water Resource Program's Streamflow Restoration Policy (WR POL-2094): <https://apps.wr.ecology.wa.gov/docs/WaterRights/wrwebpdf/pol-2094.pdf>.
- HQ and NWRO staff will provide additional guidance during a declared drought for those homeowners subject to any water use limits established under WAC 173-501-065.
- HQ and NWRO staff can provide education and technical assistance to achieve voluntary compliance on new conservation standards.
- HQ and NWRO staff will provide technical assistance to existing and potential project proponents.
- NWRO staff responsible for processing water right applications can provide assistance, including pre-application meetings, to parties interested in the new exemption to the rule closures, as provided for in WAC 173-501-070.

Compliance and Enforcement

Enforcement of this rule amendment follows the same procedures used in other water management rules and as outlined in Water Resources Program Enforcement Policy (WR POL-2005): <https://apps.wa.gov/ecology/docs/WaterRights/wrwebpdf/pol2005.pdf>.

This policy is consistent with WAC 173-501-090 of the rule, which has not changed in this rule amendment.

Data Collection and Management

Consistent with the rule amendment, HQ & NWRO staff will work with Whatcom and Skagit Counties to track the number of building permits subject to the conservation standards withdrawal limits set forth in WAC 173-501-065. HQ staff will also help county staff transmit fees collected under the same section of the amended rule.

HQ and NWRO staff will work with county staff on their Annual Reporting and Five-Year Self Assessments, as per Chapter 7 of the Rule Supporting Document (RSD).

Water Right Permitting

Much of the rule area was closed to new consumptive water rights in the original rule. NWRO staff will work with applicants and potential applicants interested in applying for a new water right under the new exemption to the closures, as provided for in WAC 173-501-070.

Informing and Educating Persons Affected by the Rule

Staff from Ecology's Water Resources Program, including HQ and NWRO staff will prepare focus sheets and other written materials. This information will be provided to interested parties, including those on the Water Resource Program distribution list, individuals and organizations that commented on the rule amendment, and Whatcom and Skagit Counties. Ecology's website will also have this information available for the public.

We anticipate using one-quarter FTE for two months for outreach and communication following the rule adoption.

Promoting and Assisting Voluntary Compliance

Conservation Limits for New Homes and Subdivisions

This section is specific to the new water conservation standards withdrawal limits for new homes or subdivisions receiving a new building permit using a new permit-exempt well for domestic purposes in WRIA 1, as per WAC 173-501-065:

Ecology will focus efforts to achieve voluntary compliance with this rule amendment through education, technical assistance, and training. It is important to make the affected public aware of the limits under the rule amendment at the earliest possible time. Prospective applicants should be given information and technical assistance when they apply for a subdivision or building permit, or sooner if possible (e.g. pre-application meetings, etc.). Ecology will provide informational materials regarding the conservation standards for Whatcom and Skagit Counties to distribute to applicants affected by the rule amendment. This information will also be available on Ecology's website. Our experience is that most water users voluntarily comply when they know what they are required to do.

Ecology will provide information and education to Whatcom and Skagit County staff who issue building permits for single-family residences, approve subdivisions, or make water availability determinations for new domestic building permits. Providing Whatcom and Skagit County staff with accurate information on conservation standards for domestic building permit applicants using new wells help ensures permit applicants understand the domestic limits associated with their proposal.

Ecology will also work with citizens, developers, realtors, and other interested parties to respond to technical assistance inquiries regarding the new conservation standards.

New Exemption for “Retiming” Projects in WRIA 1 Closure Areas

Ecology water right permitting staff in the NWRO will use pre-application meetings to help water right permit applicants understand the new exemption to closures in WAC 173-501-070.

Evaluating the Rule

The adoption of the WRIA 1 rule amendment is intended to carry out the rulemaking requirement under RCW 90.94.020 to protect streamflows, while ensuring that water is available for homes in rural parts of WRIA 1.

During the 20-year implementation period (2018-2028) specified in RCW 90.94.020, Ecology will monitor the success of the rule amendment by:

- Tracking new WRIA 1 domestic building permits relying on new permit-exempt wells for their water source (as provided to Ecology by Whatcom and Skagit Counties)
- Monitoring the results of project and action implementation (as described in the Rule Supporting Document).
- Maintaining records of new water rights authorized under the new exemption provided for in WAC 173-501-070.
- Executing the adaptive management plans laid out in the Rule Supporting Document (Publication #20-11-077). This includes Annual Reporting and Five-year Self Assessments that provide significant data and information to assess progress.

Training and Informing Ecology Staff

The rule team included many of the HQ, NWRO, and BFO staff that will be involved in implementing the rule. Rule team members will work directly with new implementation staff to ensure they receive clear training and accurate information. In addition, Water Resources Program management and staff will be briefed on the rule amendment through direct communication by the rule team, program leadership, staff meetings, email notifications, and the Ecology website.

List of Supporting Documents that May Need to be Written or Revised

- Frequently Asked Questions on the WRIA 1 rule amendment.
- Focus Sheet on conservation standard withdrawal limits for distribution by Skagit and Whatcom Counties to relevant potential and new building permit applicants using a new permit-exempt well.
- Ecology's website.
- Informal technical assistance for county staff on the rule amendment.

More Information

Please visit the rulemaking website:

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

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