

# Information for Whatcom & Skagit Counties: Amended Chapter 173-501 WAC (Nooksack)



Figure 1. 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.

## More information

Visit our WRIA 1 webpage:  
<https://ecology.wa.gov/NooksackRuleUpdate>

## Contact information

**Kasey Cykler**  
(360) 603-1037  
[Kasey.Cykler@ecy.wa.gov](mailto:Kasey.Cykler@ecy.wa.gov)

## ADA accommodations

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6831, Washington Relay Service at 711, call TTY at 877-833-6341 or visit [ecology.wa.gov/accessibility](https://ecology.wa.gov/accessibility).

## Background

Ecology amended the water resources rule, [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. Among other things, Ecology amended the existing rule to establish new domestic permit-exempt groundwater withdrawal limits for new users in WRIA 1, effective 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>.

The following is information that may be helpful for county staff involved in issuing new residential building permits and performing water availability reviews in WRIA 1, and speaking to the public about these new domestic permit-exempt withdrawal limits, including limits during a declared drought.

**The new permit-exempt withdrawal limits apply to:**

New homes using new permit-exempt wells for their domestic use (indoor and outdoor).

**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 new 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.

**The new domestic withdrawal limits, including during a declared drought:**

	Indoor Domestic	Outdoor Domestic
Single Home	500 gallons per day	1/12 acre (3,630 square feet)
Group of Homes	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)
During a Drought	No change	Same limits but for subsistence gardening only

**The new withdrawal limits during a drought:**

If a drought emergency order is issued under [RCW 43.83B.405](#), withdrawals from new permit-exempt domestic wells may be curtailed by Ecology. Curtailed users can still use:

- Indoor domestic water use, AND
- Withdrawals to maintain up to one-twelfth acre for each connection for noncommercial subsistence gardening purposes.

During these times, domestic outdoor irrigation for things such as (non-commercial) lawn irrigation is not allowed.

---

**The amended section of WAC 173-501-065(1) includes the following definitions:**

“(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.

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

**Requirements to record withdrawal limits on property titles remain unchanged.**

The rule amendment did not change the requirements of RCW 90.94.020. Jurisdictions must continue to record withdrawal limits on the title of affected properties. Consistent with Ecology’s Water Resources Policy 2094 (WR POL-2094), the agency recommends Whatcom and Skagit Counties use the following language:

“Domestic water use at this property is subject to a water use limitation of a maximum withdrawal of 500 gallons per day for indoor domestic use and a maximum area of 1/12 (one-twelfth) acre, or 3,630 ft<sup>2</sup> (three thousand six hundred thirty square feet), for outdoor domestic water use, as set forth in WAC 173-502-065(b).

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 of Ecology, except indoor domestic water use and withdrawals to maintain up to one-twelfth acre for each connection for noncommercial subsistence gardening purposes, as set forth in WAC 173-502-065(c).“

**Fees required by RCW 90.94.020 remain unchanged.**

Whatcom and Skagit County still must collect a \$500 fee for each development permit authorizing a new permit-exempt domestic withdrawal regulated by RCW 90.94.020. The law does not specify whether local governments must collect the fee at the time of a subdivision or building permit application. Local governments are required to annually remit \$350 from each collected fee to Ecology. The \$500 fee is in addition to existing well drilling fees required under chapter 18.104 RCW.

**Thank you for your assistance implementing RCW 90.94.020 and chapter 173-501 WAC. Additional information is available on the Ecology’s WRIA 1 webpage:**

**<https://ecology.wa.gov/NooksackRuleUpdate>**

**Please feel free to contact Ecology if you have any additional questions.**