Chapter 173-511 WAC
INSTREAM RESOURCES PROTECTION PROGRAM—NISQUALLY RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRJA) 11

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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 wildlife, 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:

<table>
<thead>
<tr>
<th>STREAM MANAGEMENT UNIT INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control Station</td>
</tr>
<tr>
<td>No. Stream</td>
</tr>
<tr>
<td>Management Unit Name</td>
</tr>
</tbody>
</table>

New gage to be established.

173-511-040 Surface water source limitations to further consumptive appropriations.

173-511-060 Lakes.

173-511-070 Exemptions.

173-511-080 Future rights.

173-511-090 Enforcement.

173-511-095 Appeals.

173-511-100 Regulation review.
(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

<table>
<thead>
<tr>
<th>Stream or Lake Section, Township, and Range of Mouth or Outlet</th>
<th>Tributary to</th>
<th>Period of Closure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mashel River NE1/4SW1/4 Sec. 29, T16N, R4E and all tributaries</td>
<td>Nisqually River</td>
<td>June 1 - Oct. 31</td>
</tr>
<tr>
<td>Red Salmon Creek (Mounts Creek) NE1/4NW1/4 Sec. 33, T19N, R1E</td>
<td>Nisqually River</td>
<td>April 1 - Oct. 31</td>
</tr>
<tr>
<td>Clear Creek NE1/4SE1/4 Sec. 21, T18N, R1E and all tributaries</td>
<td>Nisqually River</td>
<td>April 1 - Oct. 31</td>
</tr>
</tbody>
</table>

(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

<table>
<thead>
<tr>
<th>Stream</th>
<th>Tributary to</th>
<th>Action</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eaton Creek SE1/4NW1/4 Sec. 6, T17N, R1E</td>
<td>Lake St. Clair</td>
<td>Closure</td>
<td>12/1/53</td>
</tr>
<tr>
<td>Harts Lake and outlet streams SW1/4SE1/4 Sec. 1, T16N, R2E</td>
<td>Nisqually River</td>
<td>Low Flow (0.5 cfs bypass)</td>
<td>10/7/44</td>
</tr>
<tr>
<td>Horn Creek SW1/4NE1/4 Sec. 1, T16N, R2E</td>
<td>Nisqually River</td>
<td>Closure</td>
<td>7/22/74</td>
</tr>
<tr>
<td>Mack Creek and all tributaries SW1/4SW1/4 Sec. 36, T18N, R1E</td>
<td>Nisqually River</td>
<td>Closure</td>
<td>5/26/48</td>
</tr>
<tr>
<td>Ohop Creek and all tributaries SW1/4NE1/4 Sec. 25, T16N, R3E</td>
<td>Nisqually River</td>
<td>Closure</td>
<td>2/15/52</td>
</tr>
<tr>
<td>Ohop Lake NE1/4SE1/4 Sec. 10, T16N, R1E</td>
<td>Ohop Creek</td>
<td>Lake Level (523 ft)</td>
<td>3/25/66</td>
</tr>
<tr>
<td>Thompson Creek and all tributaries SE1/4NE1/4 Sec. 11, T17N, R1E</td>
<td>Nisqually River</td>
<td>Low Flow (1.0 cfs bypass)</td>
<td>11/19/51</td>
</tr>
</tbody>
</table>

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WAC 173-511-050 Groundwater. Future groundwater 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, appropria- tive, 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.]

(6/9/88)