

## Chapter 173-513 WAC

# INSTREAM RESOURCES PROTECTION PROGRAM—DESCHUTES RIVER BASIN, WATER RESOURCE INVENTORY AREA (WRIA) 13

**WAC**

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**WAC 173-513-010 General provision.** These rules apply to waters within the Deschutes River basin, WRIA 13, 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. 80-08-019 (Order DE 80-11), § 173-513-010, filed 6/24/80.]

**WAC 173-513-020 Purpose.** The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Deschutes River basin with instream flows and levels necessary to provide protection for wild-life, fish, scenic, aesthetic, environmental values, recreation, navigation, and water quality.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-020, filed 6/24/80.]

**WAC 173-513-030 Establishment of instream flows.** (1) Stream management units and associated control stations are established as follows:

Stream Management Unit Information

Control Station No. Stream Management Unit Name	Control Station Location, River Mile and Section, Township and Range	Affected Stream Reach
12.0800-00 Deschutes River	3.4 Sec. 35-18N-2W	From the confluence of the Deschutes River with Capitol Lake upstream to the Deschutes Falls at river mile 41.

(2) Instream flows established for the stream management unit described in WAC 173-513-030(1) are as follows:

INSTREAM FLOWS IN THE DESCHUTES RIVER BASIN  
(in Cubic Feet per Second)

Month	Day	USGS Gage 212-0800-00 Deschutes River
Jan.	1	400
	15	400
Feb.	1	400
	15	400
Mar.	1	400
	15	400
Apr.	1	350
	15	(Closed)

Month	Day	USGS Gage 212-0800-00 Deschutes River
May	1	(Closed)
	15	(Closed)
June	1	(Closed)
	15	(Closed)
July	1	(Closed)
	15	(Closed)
Aug.	1	(Closed)
	15	(Closed)
Sept.	1	(Closed)
	15	(Closed)
Oct.	1	(Closed)
	15	(Closed)
Nov.	1	150
	15	200
Dec.	1	300
	15	400

(3) Instream flow hydrograph, as represented in the document entitled "Deschutes River basin instream resource protection program," shall be used for identification of instream flows on those days not specifically identified in WAC 173-513-030(2).

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-030, filed 6/24/80.]

**WAC 173-513-040 Surface water source limitations to further consumptive appropriations. (1)** The department of ecology, having determined that further consumptive appropriations would harmfully impact instream values, closes the following streams and lakes to further consumptive appropriation for the periods indicated.

New Surface Water Closures

Stream or Lake Section, Township and Range of Mouth or Outlet	Tributary to	Period of Closure
Deschutes River below Deschutes Falls (river mile 41)NW1/4SW1/4 Sec. 26, T. 18N.,R. 2W.	Puget Sound (Budd Inlet)	Apr. 15 to Nov. 1
Deschutes River above Deschutes Falls (river mile 41) and all tributaries of Deschutes River E1/2NE1/4 Sec. 10, T. 15N., R. 3E. (Deschutes Falls)		All year
McLane Creek and all tributaries SW1/4NW1/4 Sec. 33, T. 18N., R. 2W.	Puget Sound (Eld Inlet)	All year
Woodland Creek and all tributaries SW1/4NW1/4 Sec. 19, T. 19N., R. 1W.	Puget Sound (Henderson Inlet)	All year
Long Lake SE1/4NE1/4 Sec. 22, T. 18N., R. 1W.	Woodland Creek	All year
Patterson Lake SE1/4SW1/4 Sec. 35, T. 18N., R. 1W.	Woodland Creek	All year
Hicks Lake NE1/4SW1/4 Sec. 27, T. 18N., R. 1W.	Woodland Creek	All year

(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 Low Flow Limitations and Closures

Stream Section, Township and Range of Mouth	Tributary to	Action
Percival Creek SW1/4NE1/4 Sec. 22, T. 18N., R. 2W.	Capital Lake	Closure
Unnamed Stream NW1/4NW1/4 Sec. 33, T. 19N., R. 2W.	Puget Sound (Eld Inlet)	Low Flow (1.5 cfs)
Unnamed Stream NW1/4NW1/4 Sec. 25, T. 19N., R. 2W.	Gull Harbor	Low Flow (1.0 cfs)
Woodward Creek SW1/4NW1/4 Sec. 19, T. 19N., R. 1W.	Woodward Bay	Closure

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-040, filed 6/24/80.]

**WAC 173-513-050 Ground water.** Future ground water 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. 80-08-019 (Order DE 80-11), § 173-513-050, filed 6/24/80.]

**WAC 173-513-060 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 those situations where it is clear that overriding considerations of the public interest will be served.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-060, filed 6/24/80.]

**WAC 173-513-070 Exemptions.** (1) Nothing in this chapter shall affect water rights, riparian, appropriate, 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) Domestic use for a single residence and stock watering, except that use related to feedlots, shall be exempt from the provisions of this chapter if no alternative source is available. If the cumulative effects of numerous single domestic diversions would seriously affect the quantity of water available for instream uses, then only domestic in-house use shall be exempt.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-070, filed 6/24/80.]

**WAC 173-513-080 Future rights.** No rights to divert or store public surface waters of the Deschutes River basin, WRIA 13, shall hereafter be granted which shall conflict with the purpose of this chapter as stated in WAC 173-513-020.

[Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-080, filed 6/24/80.]

**WAC 173-513-090 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. 88-13-037 (Order 88-11), § 173-513-090, filed 6/9/88.  
Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-090, filed 6/24/80.]

**WAC 173-513-095 Appeals.** All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related 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. 88-13-037 (Order 88-11), § 173-513-095, filed 6/9/88.]

**WAC 173-513-100 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. 88-13-037 (Order 88-11), § 173-513-100, filed 6/9/88.  
Statutory Authority: Chapters 90.22 and 90.54 RCW. 80-08-019 (Order DE 80-11), § 173-513-100, filed 6/24/80.]