

Frequently Asked Questions Motorized and Gravity Siphon Aquatic Mining Impacts of ESHB 1261

What is ESHB 1261?

A new state law (bill), [ESHB 1261](#), passed during this year’s legislative session. **On June 11, 2020, motorized and gravity siphon aquatic mining is prohibited** in waters of the state that are critical habitat under the Endangered Species Act (ESA) for salmon, steelhead, or bull trout, and all fresh waters of the state with designated uses of salmonid spawning, rearing, and migration.

Where are motorized and gravity siphon aquatic mining activities allowed?

Please see [our interactive map](#) that shows potential mining areas in orange.

What’s changed?

- Motorized and gravity siphon aquatic mining in waters of the state that are designated as critical habitat for salmon, steelhead, or bull trout under ESA, or with designated uses of salmonid spawning, rearing, and habitat, is prohibited.
- In addition to receiving a Hydraulic Project Approval (HPA) permit from the Washington Department of Fish and Wildlife (WDFW), prospectors must apply for and be issued an individual National Pollution Discharge Elimination System (NPDES) water quality permit from the Department of Ecology (Ecology). Ecology will issue individual permits to prospectors who:
 1. Work outside of prohibited areas.
 2. Return effluent (water) from the mining activity back to the water body or to the ground.

Ecology is prohibited from issuing NPDES permits for motorized and gravity siphon aquatic mining in areas that are classified as critical habitat for salmon, steelhead, or bull trout, or in designated use areas for salmonid spawning, rearing, and migration.

- When prospectors apply for a HPA permit from WDFW for motorized or gravity siphon aquatic mining, they will need to submit a NPDES permit issued to them, or a letter from Ecology stating a permit is not required, for each location where they propose to operate.

Are there any types of mining allowed in the prohibited areas?

Yes. Non-motorized mining activities, such as gold panning, are still allowed in the prohibited areas. These activities will not require an individual NPDES permit from Ecology, but still require an individual HPA or coverage under the Gold and Fish pamphlet [permit from WDFW](#).

What’s allowed vs. not allowed

Location	Motorized and Gravity Siphon Aquatic Mining	Non-Motorized Methods
Prohibited area	Not allowed	Allowed- HPA permit or Gold and Fish pamphlet coverage needed

Location	Motorized and Gravity Siphon Aquatic Mining	Non-Motorized Methods
Mining potential use area*	Allowed- with NPDES permit and HPA permit	Allowed- only HPA permit or Gold and Fish pamphlet coverage needed

*Potential use areas are areas not identified as prohibited and where Ecology may issue individual NPDES permits pending application review.

How do prospectors apply for permits?

- 1) Visit ecology.wa.gov/mineral-prospecting-and-placer-mining to apply for an individual National Pollutant Discharge Elimination System (NPDES) permit from Ecology. This permit includes the requirements you must follow in order to discharge water to surface water bodies, like lakes or streams, or to the ground during the mining process. Please note that you must apply for a NPDES permit at least 180 days prior to the start date of mining operation.
- 2) Apply for a HPA permit from WDFW: visit <https://wdfw.wa.gov> and type in "HPA" in the search bar. For more information about WDFW's permits, please refer to their [rules for mineral prospecting and placer mining webpage](http://wdfw.wa.gov/licenses/environmental/hpa/types/prospecting#dredging-reqs) (wdfw.wa.gov/licenses/environmental/hpa/types/prospecting#dredging-reqs). You must include a copy of an NPDES permit issued to you for each location at which you are proposing to operate.

What does this mean for currently permitted prospectors?

Starting June 11, 2020, if you want to legally continue motorized and gravity siphon aquatic mining activities in a [potential use area](#), you will need a NPDES permit (in addition to your HPA permit). Follow the application process on [our website](#) or contact us for more information.

What should prospectors who were mining before June 11, 2020 do if they believe they should be issued a NPDES permit even though they're working within or above the ordinary high water mark in prohibited waters?

Please contact Ecology (see contact below) to discuss the specifics of your mining operation. If we believe that your activity may be allowed under the new legislation, we will advise you to apply for an individual NPDES permit. After you submit your application we will then conduct an in-depth review of the proposed discharge to make a final determination.

What do you do if you see someone mining in a prohibited area?

As always, if you see something, please report it to our Environmental Reporting and Tracking System (ERTS) by filling out the reporting [form](#) (ecology.wa.gov/ERTS) or visiting the [ERTS website](#) (ecology.wa.gov/reportanissue) to find the appropriate regional phone number based on where you saw the potential violation. Ecology will follow-up on the complaints.

Questions?

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Washington State Department of Fish and Wildlife
<https://wdfw.wa.gov/licenses/environmental/hpa/types/prospecting>