



Inside the Legislature

- ★ Find Your Legislator
- ★ Visiting the Legislature
- ★ Agendas, Schedules and Calendars
- ★ Bill Information
- ★ Laws and Agency Rules
- ★ Legislative Committees
- ★ Legislative Agencies
- ★ Legislative Information Center
- ★ E-mail Notifications
- ★ Civic Education
- ★ History of the State Legislature

Outside the Legislature

- ★ Congress - the Other Washington
- ★ TVW
- ★ Washington Courts
- ★ OFM Fiscal Note Website



[WACs](#) > [Title 173](#) > [Chapter 173-15](#)

Chapter 173-15 WAC

Last Update: 7/28/00

PERMITS FOR OIL OR NATURAL GAS EXPLORATION ACTIVITIES CONDUCTED FROM STATE MARINE WATERS

[Chapter Listing](#)

WAC Sections

173-15-010	Authority and purpose.
173-15-020	Definitions.
173-15-030	Exploration activity permit system.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-15-040	Penalties. [Statutory Authority: RCW 90.58.550 , 90.58.560 and 1983 c 138. WSR 84-01-028 (Order DE 83-35), § 173-15-040, filed 12/12/83.] Repeated by WSR 87-16-101 (Order DE 87-09), filed 8/5/87. Statutory Authority: RCW 90.58.200 .
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173-15-010

Authority and purpose.

These rules are adopted under RCW [90.58.550\(6\)](#) for the purpose of establishing the basic requirements for the exploration activity permit system.

[Statutory Authority: RCW [90.58.550\(6\)](#). WSR 00-16-080 (Order 00-12), § 173-15-010, filed 7/28/00, effective 8/28/00. Statutory Authority: RCW [90.58.550](#), 90.58.560 and 1983 c 138. WSR 84-01-028 (Order DE 83-35), § 173-15-010, filed 12/12/83.]

173-15-020

Definitions.

The following definitions apply:

- (1) "Department" means the department of ecology.
- (2) "Exploration activity" means reconnaissance or survey work related to gathering information about geologic features and formations underlying or adjacent to marine waters. Those activities include sonic, ultrasonic, seismic, sparker, side-scan sonar, infrared, heat sensor, chemical analysis (sniffer), or other remote sensing techniques that do not disturb the surface of the aquatic lands, as well as drilling, core sampling, or other exploratory techniques that penetrate the beds underlying or adjacent to marine waters.
- (3) "Marine waters" includes the waters of Puget Sound north to the Canadian border, the waters of the Strait of Juan de Fuca, the waters between the western boundary of the state and the ordinary high water mark, and related bays and estuaries. RCW [90.58.550](#) (1)(b).
- (4) "Normal public use of the marine waters of the state" means those activities generally enjoyed by members of the public including, but not limited to, recreation, fishing (commercial and sports), navigation and commerce.
- (5) "Vessel" includes ships, boats, barges, or any other floating craft. RCW [90.58.550](#) (1)(c).
- (6) "Director" means the director of the department of ecology.
- (7) "Person" means any individual, public or private corporation, agency, or other entity, except for state or federal agencies.

[Statutory Authority: RCW [90.58.550\(6\)](#). WSR 00-16-080 (Order 00-12), § 173-15-020, filed 7/28/00, effective 8/28/00. Statutory Authority: RCW [90.58.550](#), 90.58.560 and 1983 c 138. WSR 84-01-028 (Order DE 83-35), § 173-15-020, filed 12/12/83.]

173-15-030

Exploration activity permit system.

The permit system established by RCW [90.58.550](#) is as follows:

- (1) Applicability.
 - (a) A person who desires to perform oil or natural gas exploration activities by vessel located on or within marine waters of the state shall first obtain a permit from the department.
 - (b) An exploration activity permit obtained under (a) of this subsection is the sole permit a person is required to obtain for exploration activity under chapter [90.58](#) RCW.
 - (c) Except as provided in (b) of this subsection, nothing in this chapter may modify any powers of local governments set forth in chapter [90.58](#) RCW.
- (2) Exploration activity permit application.
 - (a) Applications for an exploration activity permit must be supplied by the department.
 - (b) Applications must be filed with the Shorelands and Environmental Assistance Program, Department of

Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

(c) No application may be processed until it is deemed complete by the department.

(d) Each application for an exploration activity permit must be accompanied by a completed environmental checklist as provided in Title 197 WAC.

(3) Processing of complete application.

(a) A complete application will be forwarded to state natural resource management agencies and local governments and Indian tribes affected by the proposed exploration activity.

(b) Comments will be requested regarding the proposed exploration activity and its compatibility with the criteria established under RCW 90.58.550(2). Normally, reviewing agencies will be allowed fifteen days from receipt of the application, as provided by the department, in which to submit comments to the department.

(4) Public notice.

(a) Upon receipt of a completed application, the department shall instruct the applicant to publish a notice of the proposed exploration activity.

(b) Notices of the proposed exploration activity must be published in the newspaper of the largest general circulation within each of the counties in which the activity is proposed.

(c) Any person wishing to express views on the proposed exploration activity will be given fifteen days to comment to the department.

(d) All notices of applications for exploration activity permits shall contain, as a minimum, the information called for in the following form:

Notice of Application for
Exploration Activity Permit

Notice is hereby given that (company name or institution) has filed an application for an exploration activity permit for oil and/or natural gas survey and reconnaissance work in (list major bodies of water).

The exploration activity consists of (describe survey gear, vessel, and other equipment in sufficient detail to inform public of the nature of the operation).

The exploration activity is proposed to begin on (date) and end (date).

Any person desiring to express views or to be notified of the action taken on this application should notify the department of ecology in writing of his or her interest within fifteen days of the final date of publication of this notice, which is (date). Written comments should be mailed or delivered to the Washington Department of Ecology, Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600. (360) 407-8000. Comment period deadline is (date).

(e) The applicant shall provide an affidavit to the department of ecology that the notice has been properly published in accordance with this section.

(5) Public hearing. A public hearing on the proposed exploration activity permit will be held by the department if it determines, upon consideration of factors such as location, timing, duration, method of operation, and public comments, that a hearing would assist it in implementing the intent of RCW 90.58.550(2).

(6) Department exploration activity permit decision.

(a) The department will approve an exploration activity permit application if it determines that the proposed activity meets the criteria set forth in RCW 90.58.550(2). Exploration activities may not:

- (i) Interfere materially with the normal public uses of the marine waters of the state;
- (ii) Interfere with activities authorized by a permit issued under RCW 90.58.140(2);
- (iii) Injure the marine biota or other fish and wildlife, beds, or tidelands of the waters;
- (iv) Violate water quality standards established by the department;
- (v) Create a public nuisance; or

(vi) Conflict with a shoreline master program approved by the department under RCW 90.58.090 or 90.58.190.

(b) The department, as lead agency, will comply with the provisions of the State Environmental Policy Act as governed by the procedures established under chapter 43.21 RCW and its implementing rules.

(c) No application for an exploration activity permit relating to surface drilling for oil or gas in the waters of Puget Sound north to the Canadian boundary or the Strait of Juan de Fuca seaward of the ordinary high water mark may be approved by the department under this section. RCW 90.58.160.

(7) Exploration activity permit terms and conditions.

(a) The department shall place terms and conditions in the exploration activity permit as necessary to assure that the permitted activity meets the requirements of RCW 90.58.550(2).

(b) The terms and conditions may include, but are not limited to:

- (i) Geographic limits on the area of operation;
- (ii) Timing of the operation;
- (iii) Limitations on hours of operation;
- (iv) Placement of on-board observers;
- (v) Use of lead boats;
- (vi) Insurance or bond;
- (vii) Fishermen (or other users group) notification procedures; or
- (viii) Any combination of the terms and conditions in (b)(i) through (vii) of this subsection.

(8) Modifications of exploration activity permits. When a permittee seeks to modify an exploration activity permit, detailed maps or charts and text describing the nature of the modification must be submitted to the department. Modifications to the permit may be made by the department when the department determines that the changes are of a minor nature.

(9) Request for review. All requests for review of any final permit decision under RCW 90.58.550(2) and these rules are governed by the procedures established in chapter 43.21B RCW and its implementing rules.

[Statutory Authority: RCW 90.58.550(6). WSR 00-16-080 (Order 00-12), § 173-15-030, filed 7/28/00, effective 8/28/00. Statutory Authority: RCW 90.58.550, 90.58.560 and 1983 c 138. WSR 84-01-028 (Order DE 83-35), § 173-15-030, filed 12/12/83.]

WSR 00-16-080

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 00-12 -- Filed July 28, 2000, 3:49 p.m.]

Date of Adoption: July 26, 2000.

Purpose: Chapter 173-15 WAC, Permits for oil and natural gas exploration establishes the basic requirements for the exploration activity permit system. This amendment makes housekeeping changes and clarifies the language without changing its intent.

Citation of Existing Rules Affected by this Order: Amending WAC 173-15-010, 173-15-020, and 173-15-030.

Statutory Authority for Adoption: RCW 90.58.550(6).

Adopted under notice filed as WSR 00-11-066 on May 15, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0. Effective Date of Rule: Thirty-one days after filing.

July 26, 2000

Tom Fitzsimmons

Director

OTS-3614.2

AMENDATORY SECTION(Amending Order DE 83-35, filed 12/12/83)

WAC 173-15-010

Authority and purpose.

These rules are ~~((promulgated pursuant to))~~ adopted under RCW 90.58.550(6) for the purpose of establishing the basic requirements for the exploration activity permit system.

[Statutory Authority: RCW 90.58.550, 90.58.560 and 1983 c 138. 84-01-028 (Order DE 83-35), § 173-15-010, filed 12/12/83.]

AMENDATORY SECTION(Amending Order DE 83-35, filed 12/12/83)

WAC 173-15-020

Definitions.

The following definitions ~~((shall))~~ apply:

- (1) "Department" means the department of ecology.
- (2) "Exploration activity" means reconnaissance or survey work related to ~~((gather))~~ gathering information about geologic features and formations underlying or adjacent to marine waters. ~~((Such))~~ Those activities include sonic, ultrasonic, seismic, sparker, side-scan sonar, infrared, heat sensor, chemical analysis (sniffer), or other remote sensing techniques ~~((which))~~ that do not disturb the surface of the aquatic lands, as well as drilling, core sampling, or other exploratory techniques ~~((which))~~ that penetrate the beds underlying or adjacent to marine waters.
- (3) "Marine waters" includes the waters of Puget Sound north to the Canadian border, the waters of the Strait of Juan de Fuca, the waters between the western boundary of the state and the ordinary high water mark, and related bays and estuaries. RCW 90.58.550 (1)(b).
- (4) "Normal public use of the marine waters of the state" means those activities generally enjoyed by members of the public including, but not limited to, recreation, fishing (commercial and sports), navigation and commerce.
- (5) "Vessel" includes ships, boats, barges, or any other floating craft. RCW 90.58.550 (1)(c).
- (6) "Director" means the director of the department of ecology.
- (7) "Person" means any individual, public or private corporation, agency, or other entity ~~((whatsoever))~~, except for state or federal agencies.

[Statutory Authority: RCW 90.58.550, 90.58.560 and 1983 c 138. 84-01-028 (Order DE 83-35), § 173-15-020, filed 12/12/83.]

AMENDATORY SECTION(Amending Order DE 83-35, filed 12/12/83)

WAC 173-15-030

Exploration activity permit system.

The permit system established by RCW 90.58.550 ~~((shall be))~~ is as follows:

- (1) Applicability.

(a) A person (~~((desiring))~~) who desires to perform oil or natural gas exploration activities by vessel located on or within marine waters of the state shall first obtain a permit from the department.

(b) An exploration activity permit obtained under (a) of this subsection (~~((shall be))~~) is the sole permit a person is required to (~~((be obtained))~~) obtain for exploration activity under chapter 90.58 RCW.

(c) Except as provided in (b) of this subsection, nothing (~~((herein shall))~~) in this chapter may modify any powers of local governments set forth in chapter 90.58 RCW.

(2) Exploration activity permit application.

(a) Applications for an exploration activity permit (~~((shall))~~) must be supplied by the department.

(b) Applications (~~((shall))~~) must be filed with the Shorelands (~~((Division))~~) and Environmental Assistance Program, Department of Ecology, (~~((Headquarters Office))~~) P.O. Box 47600, Olympia, WA 98504-7600.

(c) No application (~~((shall))~~) may be processed until it is deemed complete by the department.

(d) Each application for an exploration activity permit (~~((shall))~~) must be accompanied by a completed environmental checklist as provided in Title 197 WAC.

(3) Processing of complete application.

(a) A complete application will be forwarded to state natural resource management agencies and local governments and Indian tribes affected by the proposed exploration activity.

(b) Comments will be requested regarding the proposed exploration activity and its compatibility with the criteria established under RCW 90.58.550(2). Normally, reviewing agencies will be allowed fifteen days(;) from receipt of the application, as provided by the department, in which to submit comments to the department.

(4) Public notice.

(a) Upon receipt of a completed application, the department shall instruct the applicant to publish a notice (~~((thereof))~~) of the proposed exploration activity.

(b) Notices of the proposed exploration activity (~~((shall))~~) must be published in the newspaper of the largest general circulation within each of the counties in which the activity is proposed.

(c) Any person wishing to express views on the proposed exploration activity will be given fifteen days to comment to the department.

(d) All notices of applications for exploration activity permits shall contain, as a minimum, the information called for in the following form:

Notice of Application for

Exploration Activity Permit

Notice is hereby given that (company name or institution) has filed an application for an exploration activity permit for oil and/or natural gas survey and reconnaissance work in (list major bodies of water)

The exploration activity consists of (describe survey gear, vessel, and other equipment in sufficient detail to inform public of the nature of the operation)

The exploration activity is proposed to (~~((commence))~~) begin on (date) and end (date).

Any person desiring to express views or to be notified of the action taken on this application should notify the department of ecology in writing of (~~((his/her))~~) his or her interest within fifteen days of the final date of publication of this notice, which is (date). Written comments should be mailed or delivered to the Washington Department of Ecology, (~~((Shorelands Division, Mail Stop PV-11, Olympia, WA 98504, (360) 459-6272))~~) Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600. (360) 407-6000. Comment period deadline is (date).

(~~e~~) (~~((An affidavit that the notice has been properly published pursuant to this section shall be provided to the department by the applicant.))~~) The applicant shall provide an affidavit to the department of ecology that the notice has been properly published in accordance with this section.

(5) Public hearing. A public hearing on the proposed exploration activity permit will be held by the department if it determines, upon consideration of (~~((such))~~) factors such as location, timing, duration, method of operation, and public comments, that a hearing would assist it in implementing the intent of RCW 90.58.550(2).

(6) Department exploration activity permit decision.

(a) The department will approve an exploration activity permit application if it determines that the proposed activity meets the criteria set forth in RCW 90.58.550(2). Exploration activities may not:

- (i) Interfere materially with the normal public uses of the marine waters of the state;
- (ii) Interfere with activities authorized by a permit issued under RCW 90.58.140(2);
- (iii) Injure the marine biota or other fish and wildlife, beds, or tidelands of the waters;
- (iv) Violate water quality standards established by the department;
- (v) Create a public nuisance; or
- (vi) Conflict with a shoreline master program approved by the department under RCW 90.58.090 or 90.58.190.

(b) The department, as lead agency, will comply with the provisions of the State Environmental Policy Act as governed by the procedures established under chapter 43.21 RCW and its implementing rules.

(c) No application for an exploration activity permit (~~shall be approved by the department under this section which relates~~) relating to surface drilling for oil or gas in the waters of Puget Sound north to the Canadian boundary or the Strait of Juan de Fuca seaward of the ordinary high water mark may be approved by the department under this section. RCW 90.58.160.

(7) Exploration activity permit terms and conditions.

(a) The department shall place terms and conditions in the exploration activity permit as necessary to assure that the permitted activity meets the requirements of RCW 90.58.550(2).

(b) (~~Such~~) The terms and conditions may include, but are not limited to:

(i) Geographic limits on the area of operation;

(ii) Timing of the operation;

(iii) Limitations on hours of operation;

(iv) Placement of on-board observers;

(v) Use of lead boats;

(vi) Insurance or bond; (~~and/or~~)

(vii) Fishermen (or other users group) notification procedures; or

(viii) Any combination of the terms and conditions in (b)(i) through (vii) of this subsection.

(8) Modifications of exploration activity permits. When a permittee seeks to modify an exploration activity permit, detailed maps(~~f~~) or charts and text describing the nature of the modification (~~shall~~) must be submitted to the department. Modifications to the permit may be made by the department when the department determines that (~~such~~) the changes are of a minor nature.

(9) Request for review. All requests for review of any final permit decision under RCW 90.58.550(2) and these rules are governed by the procedures established in chapter 43.21B RCW and its implementing rules.

[Statutory Authority: RCW 90.58.550, 90.58.560 and 1983 c 138. 84-01-028 (Order DE 83-35), § 173-15-030, filed 12/12/83.]

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