

RCW 90.48.615 Motorized or gravity siphon aquatic mining—

Prohibited acts. (1) A discharge to waters of the state from a motorized or gravity siphon aquatic mining operation is subject to the department's authority under this chapter and the federal clean water act. The department shall evaluate whether the number of dischargers subject to this section warrants the adoption of a general permit for motorized or gravity siphon aquatic mining. If so, the department is directed to minimize the cost to permit applicants by basing general permit provisions on existing general permits adopted in other states to comply with the federal clean water act.

(2) The following act or acts are prohibited: Motorized or gravity siphon aquatic mining or discharge of effluent from such activity to any waters of the state that has been designated under the endangered species act as critical habitat, or would impact critical habitat for salmon, steelhead, or bull trout. This includes all fresh waters with designated uses of: Salmonid spawning, rearing, and migration.

(3) A person commits the offense of unlawful motorized or gravity siphon aquatic mining if the person engages in such an activity in violation of this chapter or the federal clean water act. Such an offense is subject to enforcement under this chapter. Before the department may take any enforcement action against a person pursuant to this section, the department shall first attempt to achieve voluntary compliance. As part of this first response, the department shall offer information and technical assistance to the person in writing identifying one or more means to accomplish the person's purposes within the framework of the law.

(4) For the purposes of this section, "motorized or gravity siphon aquatic mining" means mining using any form of motorized equipment, including but not limited to a motorized suction dredge, or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, that involves a discharge within the ordinary high water mark of waters of the state.

(5) This section does not apply to:

(a) Aquatic mining using nonmotorized methods, such as gold panning, if the nonmotorized method does not involve use of a gravity siphon suction dredge;

(b) Mining operations where no part of the operation or discharge of effluent from the operation is to waters of the state;

(c) Surface mining operations regulated by the department of natural resources under Title 78 RCW;

(d) Metals mining and milling operations as defined in chapter 78.56 RCW; or

(e) Activities related to an industrial facility, dredging related to navigability, or activities subject to a clean water act section 404 individual permit. [2020 c 10 § 2.]

Findings—2020 c 10: "The legislature finds that under RCW 90.48.260, the department of ecology is directed to implement and comply with the federal clean water act. The legislature further finds that Washington state, unlike other states and the environmental protection agency, has taken no action to regulate or limit water quality impacts from motorized or gravity siphon aquatic mining. The legislature also finds that federal courts have determined that discharges from this activity require regulation under the clean water act and that Washington's attorney general has supported such

regulations in other states as necessary to protect water quality and fish species, even though such protections do not exist in Washington state. The legislature further finds that harmful water quality impacts are occurring in areas designated as critical habitat for threatened or endangered steelhead, salmon, and bull trout, including spawning areas for chinook salmon relied on by southern resident orcas." [2020 c 10 § 1.]