

Cancels: SPM 04-05 PROSPECTING AND MINING ON STATE-OWNED AQUATIC LANDS

GL 09-14.1 PROSPECTING, MINING AND METAL DETECTING ON STATE-OWNED AQUATIC LAND

DISCUSSION

Documentation

This guideline replaces in its entirety standard practice memorandum (SPM) 04-05 dated March 29, 2004. It supersedes all policy statements, guidance, and department direction related to determining the use authorization requirements for prospecting, mining and metal detecting on state-owned aquatic lands.

A hardcopy of this guideline should be placed in Section 14.1 of the user's Aquatic Resource Reference Manual. An electronic version of this guideline is located on the department's intranet site.

Objective

The objective of this guideline is to ensure statewide consistency in the application of existing statutes and administrative code by Washington State Department of Natural Resources (WDNR) staff when determining the authorization requirements for the use of state-owned aquatic lands for prospecting, mining and metal detecting. This guideline shall be used in conjunction with the laws and rules enforced by the Washington Department of Ecology (Ecology), Washington Department of Fish & Wildlife (WDFW), and other state, local, and federal governments, which have regulatory authority over prospecting, mining and metal detecting in Washington State waters.

Background

A key WDNR goal is to provide environmentally responsible recreational opportunities on state-owned aquatic lands. Another goal is to ensure recreational opportunities are available to present and future generations.

Prospecting, mining and metal detecting on state-owned aquatic land must comply with all existing local, state and federal environmental regulations. To help small-scale miners and recreational prospectors operate in compliance with the hydraulics code, WDFW developed the Gold & Fish pamphlet. By following the guidelines in the Gold and Fish pamphlet, small-scale miners and recreational prospectors can operate without endangering fish. However, the Gold and Fish pamphlet does not address many of the proprietary concerns WDNR has as managers of state-owned aquatic lands.

Resource Management Concerns

The resource management concerns posed by prospecting, mining and metal detecting on state-owned aquatic lands are primarily related to the protection of habitat for fish and other aquatic life, degradation of water quality, and interference with navigation and other recreational opportunities. The majority of mining activities occurring on state-

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GL 09-14.1 PROSPECTING, MINING AND METAL DETECTING ON STATE-OWNED AQUATIC LAND

owned aquatic lands are considered small-scale mining. Most small-scale mining activities are small suction dredges and hand panning activities on the bars and shorelines of rivers in rural areas. Fish habitat issues are addressed by the hydraulics code as presented in the Gold and Fish pamphlet published by WDFW. In some cases a shoreline permit from a local jurisdiction is required as well. In cases where water quality certifications or discharge permits are required, Ecology would become involved to issue those permits.

Contracts for mining commercial quantities of minerals present other concerns. These concerns have been seen most clearly in the applications for mining contracts on the lower Columbia River to remove large volumes of black sand. In most cases, large mining projects require an environmental impact statement for the shoreline permit. If not, then it may become necessary for WDNR to become the lead agency and require an environmental impact statement before issuing a mining contract. Large projects that remove significant volumes of minerals under a mining contract may also pose severe problems with navigation on larger rivers like the Columbia. These impacts must be thoroughly addressed in the environmental impact statement.

Relevant Statutes and Administrative Code

The Revised Code of Washington (RCW) chapter 79.14, sections 300 through 400, and Washington Administrative Code (WAC) chapter 332-16, govern exploration for minerals (prospecting), commercial production of minerals (commercial mining), all types of small-scale mining and recreational prospecting on state-owned aquatic lands. Sections of particular importance are listed below:

RCW 79.90.330	Leases and permits for prospecting and contracts for mining valuable minerals and specific materials from aquatic lands
RCW 79.90.340	Option contracts for prospecting and leases for mining and extraction of coal from aquatic lands
RCW 79.14.300	Prospecting and mining - Leases and permits for prospecting and contracts for mining valuable minerals and specific materials - Exception authorized - Lands subject to - Size of tracts
RCW 79.14.315	Recreational prospecting permits
RCW 79.14.330	Prospecting and mining - Leases for mineral prospecting - Application - Fees - Rejection
WAC 332-16-035	Prospecting leases and mining contracts -- Rental rates, advance minimum royalty, prospecting work requirement, development work requirement and production royalty
WAC 332-16-045	Recreational prospecting permit fees
WAC 332-16-055	Application for prospecting lease

Cancels: SPM 04-05 PROSPECTING AND MINING ON STATE-OWNED AQUATIC LANDS

GL 09-14.1 PROSPECTING, MINING AND METAL DETECTING ON STATE-OWNED AQUATIC LAND

WAC 332-16-065 Conversion of a prospecting lease to a mining contract
WAC 332-16-255 Recreational prospecting areas

The WDNR has been granted the authority to lease state-owned aquatic lands in statute, with further clarification regarding the conditions required for the approval of a lease or other use authorization set in administrative code. Relevant sections are listed below:

RCW 79.90.455 Aquatic lands – Management guidelines
RCW 79.90.460 Aquatic lands – Preservation and enhancement of water dependent uses – Leasing authority
WAC 332-30-122 Aquatic land use authorization

GUIDELINE

1. Applicability

This guideline applies to all state-owned aquatic lands. It does not apply to aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the WDNR. This guideline, therefore, does not apply to those lands within the Seashore Conservation Area defined in RCW 79A.05.605, which is under the jurisdiction of the Washington State Parks and Recreation Commission.

2. Authorization requirements

The requirement for a proponent wishing to conduct any type of prospecting, mining and metal detecting on state-owned aquatic lands to obtain a use authorization prior to commencing operations will be determined on a case-by-case basis after considering all proprietary interests of the State. Proponents wishing to conduct any type of prospecting, mining and metal detecting on state-owned aquatic lands will file an application with the aquatic district office responsible for the proposed location of the operations in order to begin the determination process. Some uses may be allowable without restrictions, while others may be allowable only with certain conditions that ensure WDNR is fulfilling the statutory management guidelines listed in RCW 79.90.455.

3. Recreational prospecting areas

Another method for authorizing prospecting, mining and metal detecting on state-owned aquatic lands is through the designation of a recreational prospecting area (RPA). An RPA may be designated in situations where WDNR feels more control is required over activities that are occurring in a specific area. The procedures for establishing an RPA can be found in RCW 79.14.315 and WAC 332-16-255.

Date: June 2, 2005

Page 4 of 4

Cancels: SPM 04-05 PROSPECTING AND MINING ON STATE-OWNED
AQUATIC LANDS

**GL 09-14.1 PROSPECTING, MINING AND METAL DETECTING ON STATE-
OWNED AQUATIC LAND**

Conditions on the activities allowed to occur in a recreational prospecting area will be determined at the time the area is designated. Permit fees for prospecting within a recreational prospecting area, however, have been set by the Board of Natural Resources at \$10 per year.¹ To date, no recreational prospecting areas have been designated or requested.

4. Other rules and laws

All applicable local, state, and federal rules and laws must be followed at all times while conducting activities on state-owned aquatic lands. The WDNR reserves the right to further condition or prohibit any activity on state-owned aquatic land if it is determined that the activity is not consistent with statutory management guidelines.

IMPLEMENTATION

This guideline replaces in its entirety SPM 04-05 Prospecting, Mining And Metal Detecting On State-Owned Aquatic Land, March 29, 2004, in section 14.1 of the Aquatic Resources Management Reference Manual. Division and Region Managers will ensure that it is brought to the attention of all employees and maintained on file in locally maintained Policy Manuals. A copy of this and all guidelines, as well as a current index, are available on the WDNR Intranet.

Approval Date: June 2, 2005

Approved By: /S/

LOREN STERN

Manager

Aquatic Resources Division

¹ WAC 332-16-045