

19.15.130 Fish and Wildlife Habitat Conservation Areas

A. Designation of Fish and Wildlife Habitat Conservation Areas

B. Mapping of Fish and Wildlife Habitat Conservation Areas

C. Critical Area Assessment – Additional Requirements for Habitat Conservation Areas

D. Performance Standards – General Requirements

E. Performance Standards – Specific Habitats

F. Performance Standards – Mitigation Requirements

19.15.130 Fish and Wildlife Habitat Conservation Areas

A. Designation of Fish and Wildlife Habitat Conservation Areas

1. **Designation.** All areas within the county meeting one or more of the designations in Table 19.15.130-A or provisions in CCC 19.15.130.A, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife’s Management Recommendations for Priority Habitat and Species. Consultation may occur with the Washington Department of Fish and Wildlife for confirmation of designations.

Table 19.15.130-A. Fish and Wildlife Habitat Conservation Areas	
Classifications WAC 365-190-080(5)	Description
1. Areas with which federal or state designated endangered, threatened or sensitive species have a primary association.	Areas, which, if significantly altered, may reduce the likelihood that the species will reproduce over the long term. Federally designated species are those identified by U.S. Fish and Wildlife or the National Marine Fisheries Service. State designated species are those identified by the Washington Department of Fish and Wildlife. These habitats are designated as critical areas, where endangered, threatened and sensitive species are verified to have a primary association.
2. State Priority Habitats and Areas Associated with State Priority Species.	Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife.
3. Species and habitats of local importance.	<p>Habitat: Unique or significant habitats which regionally rare wildlife species depend upon and that have high wildlife concentrations, including:</p> <ul style="list-style-type: none"> • Caves, • Talus slopes, • Snag rich areas (outside forest practices). <p>Species: Wildlife species which require protective measures for their continued existence due to their population status or sensitivity to habitat alterations or are highly valued by the local citizens. Species meeting the above criteria but not depending upon a habitat of local importance (as listed above) to meet criteria habitat needs are those documented, verified, and mapped in Cowlitz County.</p>

Table 19.15.130-A. Fish and Wildlife Habitat Conservation Areas

<p align="center">Classifications WAC 365-190-080(5)</p>	<p align="center">Description</p>
<p>4. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat.</p>	<p>Naturally occurring ponds are those ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to other waters.</p> <p>Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.</p>
<p>5. Waters of the State.</p>	<p>Waters of the State shall be those defined in WAC 222-16-031, Forest Practices Board, Definitions, with the following revisions:</p> <p>(a) Type S Water (Type 1) - all waters, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.</p> <p>(b) Type F Water (Type 2) - means segments of natural waters, which are not classified as Type S, or 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands.</p> <p>(c) Type F Water (Type 3) - means segments of natural waters which are not classified as Type 1 or 2 Waters and have a moderate to slight fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands.</p> <p>(d) Type Np Water (Type 4) - means all segments of natural waters within defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.</p> <p>(e) Type Ns Water (Type 5) - means all segments of natural waters within defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an aboveground channel system to Type S, F, or Np Waters.</p>
<p>6. State natural area preserves and natural resource conservation areas.</p>	<p>Currently, there is only one natural resource conservation area in Cowlitz County, Merrill Lake. It is owned by the State of Washington and managed by the Department of Natural Resources. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.</p>
<p>7. Areas of Rare Plant Species and High Quality Ecosystems</p>	<p>Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.</p>
<p>8. Unintentionally created ponds</p>	<p>Ponds with a surface area of less than 20 acres, but greater than one acre. This designation does not include ponds in which existing and ongoing operations are occurring for mining or other permitted activity.</p>

2. Exemptions. Activities that are exempt from the requirements of the Fish and Wildlife chapter can be found in CCC 19.15.070, Exemptions.

B. Mapping of Fish and Wildlife Habitat Conservation Areas. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the county, as most recently updated (see CCC 190.15.110).

C. Critical Area Assessment – Additional Requirements for Habitat Conservation Areas. In addition to the general critical area assessment requirements of CCC 19.15.090.E.2, critical area assessments for habitat conservation areas must meet the requirements of this section. Critical area assessments for two or more types of critical areas must meet the requirements for each relevant type of critical area.

1. Preparation by a Qualified Professional. A critical areas assessment for a habitat conservation area shall be prepared by a qualified professional who is a biologist with experience preparing reports for the relevant type of habitat.

2. Areas Addressed in Critical Area Assessment. The following areas shall be addressed in a critical area assessment for habitat conservation areas:

- a. The project area of the proposed activity;
- b. All habitat conservation areas and recommended Riparian Habitat Areas within three hundred (300) feet of the project area; and
- c. All shoreline areas, floodplains, other critical areas, and related buffers within three hundred (300) feet of the project area.

3. Level One Critical Areas Habitat Assessment. A Level One Critical Areas Habitat Assessment includes:

- a. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
- b. Identification of any priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area;
- c. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality or to the use of the site by species identified in b., if any;
- d. A discussion of measures, including avoidance or minimization proposed to preserve existing habitats;
- e. A discussion of how the development activities proposal meets performance standards for the specific habitats; and
- f. If required, a mitigation plan in conformance with CCC 19.15.170.C.
- g. Demonstration that the proposed development activities will not:
 - i. Reduce stream or habitat functions, including those of nonfish habitat;
 - ii. Degrade the habitat, including habitat for anadromous fish within the Inner Zone of the Riparian Habitat Area (RHA); and
 - iii. Be located within another critical area or associated buffer.
- h. The Director as warranted may require additional studies.

4. Level Two Critical Areas Habitat Assessment. A Level Two Critical Areas Habitat Assessment includes all required components for a Level One Critical Areas Habitat Assessment and:

- a. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
- b. A Protection Plan describing activities that will be used to mitigate any impacts from the current proposal and restore any habitat that was degraded prior to the current proposed land use activity. Activities are to be conducted in accordance with *Mitigation Sequencing*, CCC 19.15.170.C. The Protection Plan at a minimum must include, but is not limited to:
 - i. Enhancement of functions within the RHA through intensive, appropriate native vegetation and soil amendments as approved by the qualified professional. A detailed planting plan is required;
 - ii. A construction and monitoring plan and financial assurance must be provided as described in CCC 19.15.170.F.2.i and k and CCC 19.15.170.J.2, respectively; and
 - iii. A discussion of ongoing management practices that will protect habitat after the project site has been developed; including proposed monitoring and maintenance programs.
- c. The Director may require additional studies.

D. Performance Standards – General Requirements

1. Alterations within All Classifications. A habitat conservation area may be altered provided that the proposed alteration of the habitat or the mitigation proposed does not degrade the quantitative and qualitative functions and values of the habitat.

2. Non-indigenous Species. Plants, wildlife, or fish species not indigenous to the region shall not be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

3. Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

4. Clearing and Grading. When clearing and grading is permitted as part of an approved critical areas assessment the following shall apply:

- a. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1 and ending on October 1 of each year, provided that the county may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.
- b. Best Management Practices for erosion and sediment control must be in place prior to, during, and after construction.

E. Performance Standards – Specific Habitats

1. Endangered, Threatened, and Sensitive Species.

- a. Where federal or state management recommendations exist to protect a state or federally protected species, development or activities may be allowed within or adjacent to a habitat conservation area or buffer with which the state or federally endangered, threatened, or sensitive species has a primary association only when the management recommendations are

utilized as demonstrated in a critical area assessment prepared by a qualified professional and approved by the Director.

- b. **Bald Eagle Protection.** Whenever activities are proposed adjacent to a verified nest, foraging territory or communal roost, a habitat management plan shall be completed by a qualified professional and approved through the Washington Department of Fish and Wildlife. The county shall verify the location of eagle management areas for each proposed activity.
 - i. Activities are adjacent when they are within:
 - a) Four hundred (400) feet of a communal roosting area;
 - b) Eight hundred (800) feet of a nesting site; or
 - c) One half mile of a shoreline foraging area.

2. Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in CCC 19.15.120, Critical Area Wetlands. If non-wetlands habitat and wetlands are present at the same location, the provisions of this chapter or the Critical Area Wetlands chapter, whichever provides greater protection to the habitat, apply.

3. Riparian Habitat Areas (RHA). Unless otherwise allowed in this Title, all structures and activities shall be located outside of the RHA. RHAs shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams.

- a. **Seeps and Springs.** Seeps and springs may require establishment of riparian habitat areas; these will be evaluated on a case-by-case basis. A 100' riparian buffer will be required on springs if the water source is used for potable water.
- b. **Isolated Riparian Habitat Areas.** Where an existing natural or man-made barrier isolates a riparian area, that area is not within any 100-year floodplain, and a Qualified Professional demonstrates that the isolated area does not provide shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife, the standard RHA widths may not apply at the discretion of the Director.
- c. **Seasonal Restrictions.** When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger RHA widths may be required and activities may be further restricted during the specified season.
- d. **Riparian Habitat Area Widths.** Required RHA widths are shown in the table below. Widths shall be measured outward in each direction, on the horizontal plane, from the ordinary high water mark, or from the top of bank, if the ordinary high water mark cannot be identified.

Table 19.15.130-B. Riparian Habitat Areas Stream Type Recommended RHA Widths	
Stream	RHA Width (ft)^a
Type S Water –	150
Type F Water (Type 2) –	150
Type F Water (Type 3) –	100
Type Np Water –	50

Table 19.15.130-B. Riparian Habitat Areas Stream Type Recommended RHA Widths	
Stream	RHA Width (ft) ^a
Type Ns Water –	50
^a RHA widths shall be measured horizontally from the ordinary high water mark.	

- e. Increased Riparian Habitat Area Widths. The recommended RHA widths shall be increased, as follows:
- i. When the director determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area; or
 - ii. When the habitat area is within an erosion or landslide hazard area, or buffer, the RHA width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
- f. Use of Riparian Habitat Areas. Activities within RHAs shall be reviewed and approved through a critical areas assessment which demonstrates the activities will not impact the RHA's functions and values.
- i. Option 1 – Standard RHA Widths. Where all proposed development activities would occur outside of the standard RHA widths shown in Table 19.15.130-B, no Critical Areas Assessment is required.
 - ii. Option 2 – Outer Zone of RHA. The Outer Zone of the RHA is the outer one half or 50% of the standard RHA widths shown in Table 19.15.130-B. Where proposed development activities would occur within the Outer Zone, the following standards must be met:
 - a) A Level One Critical Areas Habitat Assessment is required.
 - b) No development activities shall occur within the inner 50% of the standard RHA width.
 - iii. Option 3 – Inner Zone of RHA. The Inner Zone of the RHA is the inner one half or 50% of the standard RHA widths shown in Table 19.15.130-B. Where proposed development activities would occur partially or entirely within Inner Zone, the following standards must be met:
 - a) A Level Two Critical Areas Habitat Assessment is required.
 - b) Development activities may be permitted to occur within the inner 25 percent of the RHA standard width where a Level Two Critical Areas Habitat Assessment demonstrates compliance with all applicable provisions of Subsections 4 and 5 below.
 - iv. Water Dependent Shoreline Development within the Outer and Inner Zones. Development conducted within the Outer and Inner Zones that includes water dependent activities may only occur provided they comply with a critical areas assessment and the provisions listed in Subsections 4 and 5 below, as applicable.

- iv. Impacts to the functions or values of the habitat conservation area shall require appropriate mitigation measures per CCC 19.15.170.
- c. In Water Structures. No structures that prevent the migration of salmonids will be allowed in the portion of water bodies currently used by anadromous fish.
- d. Fills. Fills shall minimize impacts to anadromous fish or their habitat.
- e. Streambank Stabilization. Streambank stabilization to protect structures from future channel migration may be permitted when such stabilization is achieved through bioengineering, soft armoring or recommended techniques in accordance with an approved critical area assessment and the guidelines of the *Washington State Integrated Streambank Protection Guidelines (2003)*.
- f. New Docks and Launching Ramps – Public or Private. Launching ramps and new docks may be permitted in accordance with an approved critical area assessment that has demonstrated the following:
 - i. The project will not result in increased beach erosion;
 - ii. The development minimizes adverse impacts to fish or wildlife habitat areas or associated wetlands;
 - iii. Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the structures.
- g. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and bridges may be permitted subject to the following additional standards:
 - i. There is no other feasible alternative route with less impact on the environment;
 - ii. The crossing minimizes interruption of downstream movement of wood and gravel;
 - iii. Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;
 - iv. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;
 - v. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area assessment;
 - vi. Trails and associated viewing platforms shall not be made of continuous impervious materials.
- h. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses, if they comply with the following additional standards:
 - i. There is no other feasible alternative route with less impact on the environment;
 - ii. Installation shall be accomplished by boring beneath the scour depth and the saturated zone beneath the water body and channel migration zone, where feasible;
 - iii. The utilities shall cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

- iv. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
 - v. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
 - vi. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.
 - vii. Utility facilities which carry liquid petroleum products or any other hazardous substance as defined in WAC 173-303 may be permitted only when demonstrated by a qualified professional that the design, location, and monitoring of the proposed facility will not cause contaminants to enter the protected resource.
- i. Public Flood Protection Measures.
- i. New public flood protection measures may be permitted, subject to the county's review and approval of a critical area assessment.
 - ii. Expansion on the landward side of existing dikes or levees may be permitted when it is determined through the Critical Areas Determination process that the affected area does not contain designated wetland, geologically hazardous or frequently flooded critical areas and does not adversely affect fish and wildlife habitat. If the Critical Areas Determination is inconclusive, a critical area assessment may be required.
- j. Instream Structures. Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities are prohibited from the critical resource areas and associated buffers.
- k. Stormwater Conveyance Facilities. Conveyance structures are prohibited from aquatic habitat resource areas.
- l. On-Site Sewage Systems and Wells.
- i. New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area assessment only if accessory to a proposed or approved residential structure, for which it is not feasible to connect to a public sanitary sewer system.
 - ii. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:
 - a) Connection to an available public sanitary sewer system;
 - b) Replacement with a new on-site sewage system located landward as far as possible, provided the proposed sewage system is in compliance with the Cowlitz County Health Department; or
 - c) Repair to the existing on-site septic system.
- m. Establishment of Riparian Habitat Areas (RHAs) for Classification 4. RHAs will be established through an approved critical areas assessment and shall:
 - i. Consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat;

- ii. Reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby;
- iii. Be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife; and
- iv. Be managed consistent with the provisions of CCC 19.15.130.E.3, Riparian Habitat Areas.

5. Alteration of Watercourses. Alteration of natural watercourses shall be avoided. If unavoidable, the following provisions shall apply to the alteration:

- a. Watercourse alteration projects shall not result in blockage of side channels.
- b. The county shall notify adjacent communities.
- c. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished.
- d. Unavoidable impacts shall be mitigated consistent with mitigation requirements found in CCC 19.15.170.

6. Other Classifications.

- a. Classifications 2 and 3. Whenever activities are proposed adjacent to or within Classification 2 or 3 areas, an approved critical area assessment prepared by a qualified professional may be required and must comply with Washington Department of Fish and Wildlife management recommendations for affected species or habitats.
- b. Classification 6. Protection for state natural area preserves and natural resource conservation area habitat will be achieved by the Washington State Department of Natural Resources.
- c. Classification 7. Protection for Areas of Rare Plant Species and High Quality Ecosystems may require verification and a critical area assessment. Activities should comply with Washington Department of Fish and Wildlife management recommendations for priority habitat species and Washington Department of Natural Resource Heritage Program guidelines.

F. Performance Standards – Mitigation Requirements

Mitigation for alterations to fish and wildlife habitat conservation areas shall be consistent with the Washington State Department of Fish and Wildlife and other state or federal agency's management recommendations and guidance documents for best practices mitigation. See CCC 19.15.170, Mitigation Requirements.