

PDS Director's Rule 18-04



Snohomish County

Planning and Development Services

Department: Snohomish County Planning and Development Services	Pages: 4	Supersedes: N/A
	Adopted: _____ 2018	Effective: _____ 2018
Subject and Title: Rule to establish protection requirements for specific species and habitats listed under SCC 30.62A.410	Code and Section Reference: SCC 30.62A.410, 30.62A.430, and 30.62A.440	
	Type of Rule: Implementation	
	Cite Basis: SCC 30.62A.430 and Chapter 30.82 SCC	
Approved: //s// signature on file _____ Barbara Mock, Director	Date: _____, 2018	

BACKGROUND:

SCC [30.62A.430](#) requires the Department to adopt rules for the protection of critical species and habitats that are included under SCC [30.62A.410](#). The minimum protection requirements are established under SCC [30.62A.440](#). The following are excerpts of relevant sections of code:

SCC 30.62A.410 Purpose.

This Part establishes standards and requirements for the protection of critical species and state natural habitats, which includes:

- (1) *Species listed as threatened or endangered under RCW [77.12.020](#) and Title [16](#) United States Code;*
- (2) *Species of local importance designated under SCC [30.62A.470](#); and*
- (3) *The following Washington State listed sensitive species:*
 - (a) *Larch mountain salamander;*
 - (b) *Common loon;*
 - (c) *Peregrine falcon;*
 - (d) *Olympic mudminnow;*
 - (e) *Pygmy whitefish;*
 - (f) *Gray whale;*

- (g) Bald eagle; and
- (h) Margined sculpin.

SCC 30.62A.430 Administrative rules authorized.

In order to protect critical species and their habitats and state natural habitats, the department shall develop administrative rules under chapter [30.82](#) SCC that establish protection requirements specific to these species and their habitats and state natural habitats.

SCC 30.62A.440 Administrative rules - minimum protection requirements.

In developing administrative rules under this section, the department shall consider establishing at least the following minimum protections:

- (1) Establishment of the primary association area;
- (2) Limitation on development activities within the primary association area;
- (3) Limitation on access to the primary association area;
- (4) Provisions for seasonal restrictions on construction activities where appropriate;
- (5) Preservation of habitat for the critical species;
- (6) Permanent protection pursuant to SCC [30.62A.160](#); and
- (7) Protection of state natural habitats.

PURPOSE:

The intent of this rule is to implement the requirements as authorized under SCC [30.62A.430](#), to establish minimum protection requirements for the protection of critical species and habitats that are listed under SCC [30.62A.410](#).

RULE:

1. This rule applies to all species that are listed under SCC [30.62A.410](#) unless there is a more specific rule adopted by Snohomish County Planning and Development Services (PDS) that applies to a particular species, primary association area, or critical habitat.
2. Minimum protection requirements for all species that have a primary association area or critical habitat area that consists of streams, lakes, marine waters, or wetlands include all applicable regulations under Chapter [30.62A](#) SCC.
3. Minimum protection requirements for all other species that are not protected under sections one and two of this rule, the following applies:
 - a. Primary association areas or critical habitat areas for individual species shall be identified by maps provided by the U.S. Fish and Wildlife Service, the U.S. National Oceanic and Atmospheric Administration Fisheries Service, or the Washington State Department of Fish and Wildlife; and
 - b. If a project proposal is within a primary association area or critical habitat area for a species that is listed under SCC [30.62A.410](#), then the applicant shall utilize resources provided by U.S. Fish and Wildlife Service, the U.S. National Oceanic and Atmospheric Administration Fisheries Service, or the Washington State Department of Fish and Wildlife and utilize the management recommendations made available by the agency to establish and apply minimum protection measures pursuant to SCC [30.62A.450](#).
4. If a project proposal is within a state natural area preserve, natural resource conservation area, or a state wildlife area (collectively known as "state natural habitats"), the minimum protection requirements shall include all applicable regulations under Chapter [30.62A](#)

PDS Director's Rule 18-04

Rule to establish protection requirements for specific species and habitats listed under SCC 30.62A.410

SCC. Additionally, all project proposals shall comply with the latest edition of the state wildlife management plan that applies to the site of the project proposal.

FINDINGS:

The following findings support the purpose of this rule:

1. This rule is necessary to implement requirements of SCC [30.62A.430](#) for the protection of critical species and habitats that are listed under SCC [30.62A.410](#).
2. The requirements to incorporate Best Available Science (BAS) into the development regulations and measures addressing the protection of critical species and habitats that are listed under SCC [30.62A.410](#) have been satisfied pursuant to RCW [36.70A.172](#).
3. Critical species addressed by SCC [30.62A.410](#) are listed by the U.S. Fish and Wildlife Service, the U.S. National Oceanic and Atmospheric Administration Fisheries Service, or the Washington State Department of Fish and Wildlife. These agencies provide species-specific technical expertise addressing the necessary measures to include in habitat management plans to provide protection and minimize impacts to each unique species.
4. State natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources and state wildlife areas are defined, established, and managed by the Washington State Department of Fish and Wildlife. Each state natural area preserve, natural resource conservation area and state wildlife area are established and managed for their unique attributes and protection measures are appropriately evaluated for each state natural habitat. These agencies provide site specific and technical expertise addressing the necessary measures to include in habitat management plans to provide protection and minimize impacts to the resources unique to each designated state natural habitat.
5. Those protection measures are set forth in [Part 300](#) and [Part 400](#) of Chapter [30.62A](#) SCC incorporate best available science and provide adequate standards and protection requirements for activities conducted within primary association areas, critical habitats, wetlands, streams, lakes and their associated buffers.
6. Pursuant to Chapter [30.82](#) SCC, the public participation process and notification requirements for this rule have been satisfied.

RULEMAKING PROCESS:

The following provides the procedural process for adoption of this rule:

Rulemaking Process		
Notice of Proposed Rule		
Filed with Council Clerk	June 5, 2018	
Posted at Counter	June 5, 2018	
Published	June 5, 2018	<i>Everett Herald</i>
Comment Period (21 days)	June 26, 2018	
Notice of Rule Adoption		
Filed with Council Clerk	TBD	

PDS Director’s Rule 18-04

Rule to establish protection requirements for specific species and habitats listed under SCC 30.62A.410

Published	TBD	
Copies to Commenters	TBD	