

EPA CLEAN WATER ACT DETERMINATION FACT SHEET



WHAT IS THE FINAL DETERMINATION?

In January 2023, EPA issued a Clean Water Act Section 404(c) Final Determination outlining protections for Bristol Bay. The final determination does two things. First, it proposes to prohibit the use of certain areas as disposal sites for dredged and fill material associated with building and operating the Pebble Mine. Second, it proposes to restrict the size of future mining proposals at the headwaters of Bristol Bay.

WHERE DOES THE PROHIBITION APPLY?

The FD's prohibition area encompasses nearly 25 square miles at the headwaters of Bristol Bay. This area includes the Pebble deposit and the proposed project footprint, including the mine's tailings impoundment facility, mine pit, and related infrastructure.

WHERE DOES THE RESTRICTION APPLY?

The FD's restriction area is a larger swath of the headwaters which encompasses nearly all of the sub-watersheds of the North Fork Koktuli River, South Fork Koktuli River, and Upper Talarik Creek. In total, the area is nearly 310 square miles.

WHAT DOES THE PROHIBITION DO?

The FD proposes to prohibit the use of certain areas as disposal sites for dredged and fill material associated with building and operating the Pebble Mine "for the construction and routine operation of the 2020 Mine Plan." The FD defined "2020 Mine Plan" includes both the mine plan submitted to the Army Corps of Engineers by Pebble as well as future mining proposals to mine the Pebble deposit that would result in the same or greater levels of loss or streamflow changes as the 2020 Mine Plan.

WHAT DOES THE RESTRICTION DO?

The FD proposes to restrict the size of future mining proposals at the headwaters of Bristol Bay that would be above certain thresholds unacceptable to water quality and fish habitat. These include:

1. The loss of approximately 8.5 miles of documented anadromous fish streams;
2. The loss of approximately 91 miles of additional streams that support anadromous fish streams;
3. The loss of approximately 2,108 acres of wetlands and other waters that support anadromous fish streams;
4. Adverse impacts on approximately 29 additional miles of anadromous fish streams resulting from greater than 20 percent changes in average monthly streamflow.

WHAT DOES 404(C) MEAN FOR DEVELOPMENT IN ALASKA?

EPA's 404(c) authority is reserved for only the most extraordinarily circumstances. Since 1972, the Agency has used 404(c) only 14 times. EPA's decision to issue an FD for the Pebble Mine comes after nearly 13 years of intensive study of the project's impacts by multiple federal agencies.

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EXECUTIVE SUMMARY - FINAL DETERMINATION FIGURE

The Defined Area for Restriction and the defined area for prohibition overlain on wetlands from the National Wetlands Inventory (USFWS 2021).

