

RCW 90.44.100 Amendment to permit or certificate—Replacement or new additional wells—Exemption for small irrigation impoundments.

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of

any existing water right to enable the holder of the right to store water governed by the right. [2003 c 329 § 3; (2009 c 183 § 16 expired June 30, 2021); 1997 c 316 § 2; 1987 c 109 § 113; 1945 c 263 § 10; Rem. Supp. 1945 § 7400-10.]

Expiration date—2019 c 78; 2009 c 183: See note following RCW 90.03.380.

Intent—1997 c 316: "The legislature intends that the holder of a valid permit or certificate of groundwater right be permitted by the department of ecology to amend a valid permit or certificate to allow full and complete development of the valid right by the construction of replacement or additional wells at the original location or new locations." [1997 c 316 § 1.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.