

WAC 173-165-130 Ecology review and final decision making. (1)

Ecology has a maximum of sixty days to make the final decision on the CWRE proof report of examination unless otherwise requested in writing by the permittee as allowed under RCW 90.03.665(6).

(2) Ecology will not accept proof reports of examination from a certified water right examiner whose certificate is expired, revoked, or otherwise invalid.

(3) Ecology may return the proof report of examination for correction to the certified water right examiner and the permittee within thirty days of ecology's initial receipt of the documents.

(a) Ecology's initial review will be comprehensive to identify all deficiencies.

(b) Ecology shall document on the proof report of examination the date ecology returned the report to the certified water right examiner for revision.

(c) If a proof report of examination is returned to the certified water right examiner and permittee for correction, ecology's sixty-day clock stops.

(d) The certified water right examiner should return the corrected report within ninety days for ecology to complete its review. On receipt of the corrected report from the certified water right examiner, ecology has thirty days to issue a final decision regarding the water right certification.

(e) If the certified water right examiner returns the corrected report later than ninety days, ecology will determine it to be a new report and ecology's sixty-day review period begins again.

(4) If during the sixty-day review period, the permittee submits a request to withdraw the proof report of examination, so long as ecology has not yet made a final decision on certification of the water right, ecology will cease their review. Ecology may consider the withdrawal as evidence of the permittee's intent to cancel the permit or change authorization if the permittee fails to:

(a) Schedule a technical assistance meeting with regional program staff; and

(b) Define a course of action for moving the water right permit or change authorization from proof of appropriation stage to certification under RCW 90.03.330, as required under WAC 173-165-120(7).

(5) Within sixty days, ecology will make a final determination regarding the proof report of examination by:

(a) Issuing a recommendation to certify the beneficial use of water in a final administrative order.

(i) After the thirty-day appeal period, ecology will prepare the water right certificate based on their review of the CWRE proof report of examination and any other information within the record, and request certificate and recording fees from the permittee.

(ii) Ecology will issue the water right certification upon receipt of certificate and recording fees.

(b) Defining a course of action for moving the water right permit or change authorization to certification under RCW 90.03.330.

(c) Canceling the permit or change authorization by issuing an administrative order that identifies the reasons for the cancellation.

(d) Taking other actions deemed appropriate based on the CWRE proof report of examination and findings.

(6) If ecology's final decision on the proof report of examination is in conflict with the certified water right examiner's recommendation, ecology will identify in its administrative order the reasons for modifying or reversing the CWRE recommendation.

[Statutory Authority: RCW 90.03.665(11), 43.27A.090(11), and
43.21A.064(9). WSR 12-24-031 (Order 11-03), § 173-165-130, filed
11/28/12, effective 12/29/12.]