

Chapter 173-590 WAC
PROCEDURES RELATING TO THE RESERVATION OF WATER FOR FUTURE PUBLIC WATER SUPPLY

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WAC

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WAC 173-590-010 Background. (1) The Water Resources Act of 1971 (chapter 90.54 RCW) sets forth fundamentals of water resource policy to insure that the waters of the state will be protected and fully utilized for the greatest benefit to the people of the state of Washington, and in relation thereto, the act provides direction to the department of ecology and other state agencies and officials in carrying out water and related resource programs.

(2) The act directs the department to develop and implement a water resources program which will provide a process for making decisions on future water resource allocation and use.

(3) The program may be developed in regional segments so that immediate attention may be given to waters of a given physioeconomic region of the state or to specific critical problems of water allocation and use.

(4) Preservation and protection of water in a potable condition for adequate and safe supplies to satisfy human domestic needs is one of the fundamentals of state water resource policy set forth in said act.

(5) The act further directs the department of ecology to modify existing regulations and adopt new regulations to insure that existing regulatory programs are in accord with the water resource policies of the act.

(6) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less cost including opportunity lost.

[Order DE 75-32, § 173-590-010, filed 3/11/76 and 3/10/76.]

WAC 173-590-020 Purpose. The purpose of this chapter is to establish and set forth a procedure whereby any person within the state of Washington may petition the department to reserve water for future public water supply.

[Order DE 75-32, § 173-590-020, filed 3/10/76.]

WAC 173-590-030 Authority. This regulation is adopted pursuant to the Water Resources Act of 1971, chapter 90.54 RCW.

[Order DE 75-32, § 173-590-030, filed 3/10/76.]

WAC 173-590-040 General. (1) These rules shall apply to both surface and groundwaters of the state.

(2) Because of changing future conditions, including institutional arrangements, reservations under this chapter will be for specific geographic areas rather than for particular water suppliers.

(3) Appropriation of reserved water shall be in accordance with the intent and procedures set forth in chapters 90.03 and 90.44 RCW and adopted water resources programs under chapters 173-500 through 173-562 WAC applicable to the geographic area specified in a water right application.

(4) Regulations reserving waters for public water supply shall, where appropriate, provide guidelines for an interim use of the reserved waters for other beneficial uses.

[Order DE 75-32, § 173-590-040, filed 3/10/76.]

WAC 173-590-050 Definitions. For the purpose of this chapter and subsequent regulations, the following definitions shall be used:

(1) "Community water use" means use of water associated with needs of a community including street cleaning, parks, public buildings, public swimming pools, firefighting, and attendant commercial, industrial and irrigational uses.

(2) "Director" means the director of the state of Washington department of ecology or his authorized representative.

(3) "Department" means the department of ecology unless specified otherwise.

(4) "Domestic water use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses.

(5) "Commercial and/or industrial use" means use of water associated with commercial and/or industrial requirements such as service, processing, cooling and conveying.

(6) "Public water supply" means any water supply intended or used for human consumption and community uses for more than one single-family residence.

(7) "Public water supply system" means a set of facilities including source, treatment, storage, transmission and distribution facilities whereby water is furnished to any municipality, community, collection, or number of individuals for human consumption and community uses.

(8) "Coordinated water system plan" means a plan adopted by utilities covering one or more public water supply system(s), which identifies present and future needs of participating water systems and sets forth means for meeting those needs in the most efficient manner possible. In areas where more than one water system lie in close proximity, a coordinated water system plan may consist of either of the following:

(a) A compilation of current and compatible water system plans developed by each utility containing the elements of comprehensive plan as set forth in WAC 248-54-280, with the addition of future service area designations, assessment of the feasibility of shared source, transmission, and storage facilities, and other mutual or regional concerns.

(b) An area wide water system plan developed jointly or by a lead agency which adequately addresses all the items mentioned in (a) above.

(9) "Reservation" means an allocation of water for a future beneficial use with the priority established as of the date when the reservation becomes effective.

(10) "Appropriation" means the process of legally acquiring the right to specific amounts of the public water resource for application to beneficial uses pursuant to RCW 90.03.250 through 90.03.340 and 90.44.060.

(11) "Person" means any individual, municipal, public, or private corporation, or other entity however dominated, including a state agency or county who operates a public water supply system or who contemplates such an operation.

[Order DE 75-32, § 173-590-050, filed 3/10/76.]

WAC 173-590-060 Reservation procedure—Petition for reservation.

Any person, hereafter desiring the department to reserve water for future public water supply may file a petition with the director requesting future establishment of a reservation, provided that the applicant shall have a coordinated water system plan approved by the secretary, department of social and health services unless exempted from this requirement by both the secretary and the director.

[Order DE 75-32, § 173-590-060, filed 3/10/76.]

WAC 173-590-070 Contents of petition. Each petition to the director for the reservation of water shall include, but not be limited to, the following:

(1) Name and post office address of the applicant.

(2) Source of water supply.

(3) Map showing the proposed general service area, source of supply, pipelines, distribution systems, wells and other appurtenant works.

(4) Present and projected population in 10, 25, and 50 years.

(5) The amount of the present and proposed use in the following categories, and the time during which water will be required each year if the requirements differ seasonally:

(a) Domestic water use;

(b) Community water uses including specific amounts for attendant commercial, industrial and irrigational uses;

(c) Other(s) as specified.

(6) Copy of a coordinated water system plan, or comprehensive plan under WAC 248-54-280 if water systems are sufficiently separated so that no advantages will be realized by coordination. All review comments from the local A-95 clearinghouse on said plan shall be provided.

(7) Information to justify the requested reservation quantity in the form of official state population estimates, regional plan or engineering reports.

(8) A summary of ongoing and planned conservation programs. When applicable, this must summarize water usage for the previous five years including total water diverted or withdrawn, total water sold, and the quantities used by residential, wholesale and large industrial users. Status of metering of all services must be described. Rate structures should not encourage waste of the water resources and should be described.

(9) Other data as may be required by the director.

[Order DE 75-32, § 173-590-070, filed 3/10/76.]

WAC 173-590-080 Record of petition. The department shall maintain a file of all petitions for reservation of water under the provisions of this chapter. If a petition is returned to the petitioner for completion or correction, the date and the reasons for the return thereof shall be endorsed and shall be recorded in the reservation file.

[Order DE 75-32, § 173-590-080, filed 3/10/76.]

WAC 173-590-090 Notice. Upon receipt of a proper petition, the director shall publish notice thereof in a newspaper or newspapers of general circulation in the county or counties in which the storage, diversion, and use is to be made, once a week for two consecutive weeks.

The director shall send notice thereof to the secretary, department of social and health services, and to the directors of the departments of fisheries and wildlife for the purpose of soliciting their comments.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. WSR 88-13-037 (Order 88-11), § 173-590-090, filed 6/9/88; Order DE 75-32, § 173-590-090, filed 3/10/76.]

WAC 173-590-100 Investigation. When a petition is received, the director shall conduct an investigation of the surrounding impacts of the proposed reservation.

[Order DE 75-32, § 173-590-100, filed 3/10/76.]

WAC 173-590-110 Reservation. Upon review of a petition for reservation, related data and the results from the departmental investigation, the director shall notify the petitioner of action pertaining to the petition, to withdraw affected waters under RCW 90.54.050(2), or to reserve water(s). If reservation is deemed appropriate, the director shall take action to adopt a regulation or amend an existing regulation established pursuant to chapter 173-500 WAC to reserve water for a future public water supply for the general geographic area described in the petition or for a general area the director determines appropriate. (RCW 90.54.050 mandates the department to conduct a

public hearing, prior to adoption of a rule to withdraw or to reserve in each county in which waters relating to the rule are located.)

The amount of the reservation shall be determined by the director and may be more or less than the amount requested in the petition. The total reservation amount may be prorated to specific subareas of service in the proposed development area. Appropriate map may be appended to regulation.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. WSR 88-13-037 (Order 88-11), § 173-590-110, filed 6/9/88; Order DE 75-32, § 173-590-110, filed 3/10/76.]

WAC 173-590-120 Compatibility with existing water resources program. Reservation of waters pursuant to this chapter and other elements of a comprehensive water resources program developed pursuant to chapters 173-500 through 173-562 WAC and amendments thereof shall be compatible.

[Order DE 75-32, § 173-590-120, filed 3/10/76.]

WAC 173-590-130 Separate reservation by use. In situations where a given area will require significant quantities of water for other than community and domestic water uses, the reservation may identify separate quantities for each use.

[Order DE 75-32, § 173-590-130, filed 3/10/76.]

WAC 173-590-140 Reservation subject to review and change. From time to time, any reservation established under this chapter shall be reviewed and, when it appears appropriate to the department in implementing RCW 90.54.050, modified. No change shall be made without consultation of interested parties. The water resource program and the coordinated water system plan shall be reviewed whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. WSR 88-13-037 (Order 88-11), § 173-590-140, filed 6/9/88; Order DE 75-32, § 173-590-140, filed 3/10/76.]

WAC 173-590-150 Effective date of reservation. The effective date of a reservation established under the provisions of this chapter shall be the date when a regulation pertaining to a specific reservation has been adopted: Provided, That the effective date for any additional amount of reservation pursuant to the provisions of WAC 173-590-140 shall be the date when such subsequent amendments become effective.

[Order DE 75-32, § 173-590-150, filed 3/10/76.]

WAC 173-590-160 Application for water rights. With regard to any permit issued pursuant to RCW 90.03.290 and 90.44.060 which au-

thorizes withdrawal and use of waters subject of a regulation provided for in WAC 173-590-110 hereof, the priority date of said permit shall be the effective date of said regulation.

[Order DE 75-32, § 173-590-160, filed 3/10/76.]

WAC 173-590-170 Reservation without petition—Hearings. Whenever it appears necessary, the director may reserve and set aside waters for beneficial utilization in the future on his own motion as provided under RCW 90.54.050(1). In so doing, prior to the adoption of such rule, the director shall conduct a public hearing in each county in which waters relating to such rule are located.

[Order DE 75-32, § 173-590-170, filed 3/10/76.]

WAC 173-590-180 Appeal. The procedures hereof relate solely to rule-making activity of the department and are designed to obtain information to assist the department in determining when waters should be reserved as provided in RCW 90.54.050. Actions conducted under this chapter do not relate to contested cases within the meaning of the Administrative Procedure Act, chapter 34.04 RCW.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. WSR 88-13-037 (Order 88-11), § 173-590-180, filed 6/9/88; Order DE 75-32, § 173-590-180, filed 3/10/76.]

WAC 173-590-190 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapters 43.21B, 43.27A, 90.22 and 90.54 RCW. WSR 88-13-037 (Order 88-11), § 173-590-190, filed 6/9/88.]