

WAC 173-505-010 General provisions—Authority and applicability.

(1) This chapter is adopted under the authority of the Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water Well Construction Act (chapter 18.104 RCW), Water resource management (chapter 90.42 RCW), Regulation of public groundwaters (chapter 90.44 RCW), and Water resources management program (chapter 173-500 WAC).

(2) This chapter applies to the use and appropriation of:

(a) All surface waters that drain within the Stillaguamish River basin, also known as water resources inventory area (WRIA) 5, including its tributaries and areas adjacent to the mouth of the Stillaguamish River that drain to salt water; and

(b) All groundwater hydraulically connected with surface waters of the Stillaguamish River basin. Existing studies indicate a substantial likelihood that all waters within WRIA 5 are in hydraulic continuity with the surface waters covered herein.

(3) This chapter shall not affect existing water rights, including perfected riparian rights or other appropriative rights existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(4) This chapter shall also not affect federal Indian and non-Indian reserved rights. The Stillaguamish Tribe of Indians and the Tulalip Tribes reserve the right to a claim for a treaty-derived off-reservation instream flow right with senior priority. The extent of such rights can only be adjudicated in federal or state court.

(5) This chapter does not limit the department's authority to establish instream flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

(6) In accordance with RCW 90.54.090, all agencies of state and local government, including counties and municipal and public corporations, shall, whenever possible, carry out powers vested in them in manners which are consistent with this chapter.

(7) In administering and enforcing this chapter, the department's actions shall be consistent with the provisions of chapter 90.54 RCW.

[Statutory Authority: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW. WSR 05-18-016 (Order 02-17), § 173-505-010, filed 8/26/05, effective 9/26/05.]