

**Chapter 90.22 RCW
MINIMUM WATER FLOWS AND LEVELS**

Sections

- 90.22.010 Establishment of minimum water flows or levels—Authorized—Purposes.
- 90.22.020 Establishment of minimum water flows or levels—Hearings—Notice—Rules.
- 90.22.030 Existing water and storage rights—Right to divert or store water.
- 90.22.040 Stockwatering requirements.
- 90.22.050 Civil penalties.
- 90.22.060 Instream flow evaluations—Statewide list of priorities—Salmon impact.

RCW 90.22.010 Establishment of minimum water flows or levels—Authorized—Purposes. The department of ecology may establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife resources, or recreational or aesthetic values of said public waters whenever it appears to be in the public interest to establish the same. In addition, the department of ecology shall, when requested by the department of fish and wildlife to protect fish, game or other wildlife resources under the jurisdiction of the requesting state agency, or if the department of ecology finds it necessary to preserve water quality, establish such minimum flows or levels as are required to protect the resource or preserve the water quality described in the request or determination. Any request submitted by the department of fish and wildlife shall include a statement setting forth the need for establishing a minimum flow or level. When the department acts to preserve water quality, it shall include a similar statement with the proposed rule filed with the code reviser. This section shall not apply to waters artificially stored in reservoirs, provided that in the granting of storage permits by the department of ecology in the future, full recognition shall be given to downstream minimum flows, if any there may be, which have theretofore been established hereunder. [1997 c 32 § 4; 1994 c 264 § 86; 1988 c 47 § 6. Prior: 1987 c 506 § 96; 1987 c 109 § 103; 1969 ex.s. c 284 § 3.]

Application—1988 c 47: See note following RCW 90.54.030.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

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

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

RCW 90.22.020 Establishment of minimum water flows or levels—Hearings—Notice—Rules. Flows or levels authorized for establishment under RCW 90.22.010, or subsequent modification thereof by the department shall be provided for through the adoption of rules. Before

the establishment or modification of a water flow or level for any stream or lake or other public water, the department shall hold a public hearing in the county in which the stream, lake, or other public water is located. If it is located in more than one county the department shall determine the location or locations therein and the number of hearings to be conducted. Notice of the hearings shall be given by publication in a newspaper of general circulation in the county or counties in which the stream, lake, or other public waters is located, once a week for two consecutive weeks before the hearing. The notice shall include the following:

- (1) The name of each stream, lake, or other water source under consideration;
- (2) The place and time of the hearing;
- (3) A statement that any person, including any private citizen or public official, may present his or her views either orally or in writing.

Notice of the hearing shall also be served upon the administrators of the departments of social and health services, natural resources, fish and wildlife, and transportation. [1994 c 264 § 87; 1987 c 506 § 97; 1985 c 196 § 1; 1984 c 7 § 384; 1969 ex.s. c 284 § 4.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

RCW 90.22.030 Existing water and storage rights—Right to divert or store water. The establishment of levels and flows pursuant to RCW 90.22.010 shall in no way affect existing water and storage rights and the use thereof, including but not limited to rights relating to the operation of any hydroelectric or water storage reservoir or related facility. No right to divert or store public waters shall be granted by the department of ecology which shall conflict with regulations adopted pursuant to RCW 90.22.010 and 90.22.020 establishing flows or levels. All regulations establishing flows or levels shall be filed in a "Minimum Water Level and Flow Register" of the department of ecology. [1988 c 127 § 81; 1969 ex.s. c 284 § 5.]

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

RCW 90.22.040 Stockwatering requirements. It shall be the policy of the state, and the department of ecology shall be so guided in the implementation of RCW 90.22.010 and 90.22.020, to retain sufficient minimum flows or levels in streams, lakes or other public waters to provide adequate waters in such water sources to satisfy stockwatering requirements for stock on riparian grazing lands which drink directly therefrom where such retention shall not result in an unconscionable waste of public waters. The policy hereof shall not apply to stockwatering relating to feed lots and other activities which are not related to normal stockgrazing land uses. [1987 c 109 § 104; 1969 ex.s. c 284 § 6.]

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

~~Severability—1969 ex.s. c 284:~~ See note following RCW 90.48.290.

RCW 90.22.050 **Civil penalties.** See RCW 90.03.600.

RCW 90.22.060 **Instream flow evaluations—Statewide list of priorities—Salmon impact.** By December 31, 1993, the department of ecology shall, in cooperation with the Indian tribes, and the department of fish and wildlife, establish a statewide list of priorities for evaluation of instream flows. In establishing these priorities, the department shall consider the achievement of wild salmonid production as its primary goal. [1998 c 245 § 172; 1993 sp.s. c 4 § 13.]

~~Findings—Grazing lands—1993 sp.s. c 4:~~ See RCW 79.13.600.