

Chapter 173-517 WAC
WATER RESOURCES MANAGEMENT PROGRAM FOR THE QUILCENE-SNOW WATER RE-
SOURCE INVENTORY AREA (WRIA 17)

Last Update: 11/30/09

WAC

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PART A - GENERAL PROVISIONS

WAC 173-517-010 Purpose and introduction. (1) The purpose of this chapter is to retain rivers, streams, lakes and ponds in the Quilcene-Snow water resource inventory area (WRIA 17) with instream flows and levels necessary to protect and preserve wildlife, fish, stock water, scenic, aesthetic, recreation, water quality and other environmental values and navigational values.

(2) WRIA 17 is located on the northeastern Olympic Peninsula and includes portions of Jefferson and Clallam counties. This chapter excludes part of the Clallam County portion of WRIA 17.

(3) This chapter sets forth the department of ecology's (ecology) policies to guide the protection, use and management of WRIA 17 surface water and groundwater resources. It establishes instream flows and closures, and sets forth a program for the administration of future water appropriation and use. For the Chimacum subbasin, where water availability is severely limited, a small amount of water is reserved for restricted out of stream use to provide a transition until alternative sources of water can be developed.

(4) This chapter designates two types of management areas for administering future water appropriation and use:

(a) **Reserve management areas.** This chapter establishes reserves of water within specified reserve management areas.

(b) **Coastal management areas.** This chapter designates coastal management areas.

(5) This chapter does not release anyone from complying with other relevant laws and rules.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-010, filed 11/30/09, effective 12/31/09.]

WAC 173-517-020 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), Watershed Planning Act (chapter 90.82 RCW), Water code (chapter 90.03 RCW), Regulation of public groundwaters (chapter 90.44 RCW) and the water resources management program rule (chapter 173-500 WAC).

(2) Except as provided in subsection (3) of this section, this chapter applies to the use and appropriation of:

(a) All surface waters within WRIA 17, including all streams, and their tributaries, that drain to salt water; and

(b) All groundwater within WRIA 17, including groundwater hydraulically connected to surface water bodies, as well as groundwater that drains to salt water.

(3) The following portion of WRIA 17 located in Clallam County, as shown in Map B in WAC 173-517-070, will be addressed through future rule making and is excluded from coverage under this chapter:

- Johnson Creek;
- West Sequim Bay;
- Dean Creek;
- Jimmycomelately Creek;
- Chicken Coop Creek; and
- The portion of Miller Peninsula in Clallam County.

(4) This chapter shall not affect existing water rights, including perfected riparian rights, or other appropriative rights, unless otherwise provided for in the conditions of the water right in question. An existing permit-exempt withdrawal is not subject to the rule to the extent such withdrawal has been put to beneficial use on the subject property for the purpose of use in question.

(5) This chapter shall not affect federal or Indian reserved rights. The Jamestown S'Klallam, Port Gamble S'Klallam, Lower Elwha Klallam, and Skokomish Tribes reserve the right to claim a treaty-derived off-reservation instream flow right with senior priority. The extent of such rights can only be determined in other forums outside of this chapter.

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

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-020, filed 11/30/09, effective 12/31/09.]

WAC 173-517-030 Definitions. For the purposes of this chapter, the following definitions apply. If these definitions differ from those in related rules, the definitions presented here shall apply for this chapter:

(1) "Allocation" means the designating of specific amounts of water.

(2) "Appropriation" means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with ground and surface water codes and other applicable statutes. This term refers to both surface and groundwater right permits and to groundwater withdrawals exempted from permit requirements under RCW 90.44.050.

(3) "Commercial agriculture" means the production of crops for sale, crops intended for widespread distribution (e.g., markets), and

nonfood crops such as hay and lavender. Commercial agriculture includes livestock production and livestock grazing. Commercial agriculture does not include crops grown for household consumption (e.g., household vegetable gardens or fruit trees).

(4) "Consumptive use" means a beneficial use of water that diminishes the amount or quality of water in the water source.

(5) "Domestic use" means use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary requirements, cooking, laundering and other incidental household uses, including potable domestic water requirements associated with commercial and industrial purposes.

(6) "Ecology" means the Washington state department of ecology.

(7) "Group domestic system" means domestic use of the groundwater exemption for two or more residences.

(8) "Hydraulically connected" means saturated conditions exist that allow water to move between two or more sources of water, either between surface water and groundwater or between groundwater sources.

(9) "Individual user" means all uses on an individual parcel or adjoining parcels under common ownership that do not qualify as a group domestic system.

(10) "Instream flow" means a stream flow level set in rule to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, and navigational values. The term "instream flow" means a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW, or a minimum instream flow under chapter 90.82 RCW.

(11) "Interruptible use" means a use, authorized under a water right, which must cease diversion or withdrawal when stream flows fall below the instream flow levels established in this rule.

(12) "Mitigation plan" means a plan, submitted to and approved by ecology, to offset the impacts of a proposed consumptive use. A mitigation plan may address impacts to a stream, basin, reach, or other area, for an individual withdrawal or for multiple withdrawals in a subbasin.

(a) A mitigation plan must show that the proposed withdrawal with mitigation in place, will not:

- Impair existing water rights, including instream flow rights;
- Be detrimental to the public interest; or
- Consume water from a closed source.

(b) The plan must include financial assurance, ensure mitigation measures for the duration of the water use and prohibit water provided for the purpose of mitigation from appropriation for any other purpose.

(c) The plan must include a monitoring and reporting plan, including a quality assurance/quality control plan.

(13) "Outdoor irrigation" means watering greenhouse or outdoor plants, lawns, or gardens.

(14) "Permit-exempt withdrawals" or "permit-exempt well" means a groundwater withdrawal exempted from permit requirements under RCW 90.44.050, but otherwise subject to the surface and groundwater statutes and other applicable laws, including this chapter.

(15) "Reserve" means a one-time, finite allocation of water for future appropriations.

(16) "Stream management unit" means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular instream flow level applies.

(17) "Subbasin" means a reserve management area or coastal management area as shown on Map B in WAC 173-517-070.

(18) "Withdrawal" means the appropriation or use of groundwater, or the diversion or use of surface water. Withdrawal includes both withdrawals under a water right permit and permit-exempt withdrawals.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-030, filed 11/30/09, effective 12/31/09.]

WAC 173-517-040 Compliance and enforcement. (1) In accordance with RCW 90.03.605, to assist the public in complying with this chapter, ecology shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter.

(2) When ecology determines that a violation has occurred, it shall:

(a) First attempt to achieve voluntary compliance. One method is to offer information and technical assistance to the person, in writing, showing one or more means to legally accomplish the person's purposes.

(b) If education and technical assistance do not achieve compliance, ecology may issue a notice of violation, a formal administrative order under RCW 43.27A.190, or assess penalties under RCW 43.83B.336, 90.03.400, 90.03.410, 90.03.600, 90.44.120, and 90.44.130.

(3) Nothing in this section is intended to prevent ecology from taking immediate action to cause a violation to be ceased immediately if in the opinion of the department the nature of the violation is causing harm to other water rights or to public or tribal resources.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-040, filed 11/30/09, effective 12/31/09.]

WAC 173-517-050 Appeals. All of ecology's final written decisions pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter may be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-050, filed 11/30/09, effective 12/31/09.]

WAC 173-517-060 Regulation review. (1) Ecology reserves the right to review and amend this rule as needed.

(2) Ecology, in consultation with the counties, the city of Port Townsend, Jefferson County PUD #1, tribal governments, other state agencies, and the WRIA 17 planning unit (if active), may initiate a review, and if necessary a modification through rule making, of this chapter as appropriate, including whenever:

- Applicable statutory changes are enacted.
- Significant new information becomes available.
- Significant changes in conditions such as population growth trends, water service areas and groundwater levels occur.

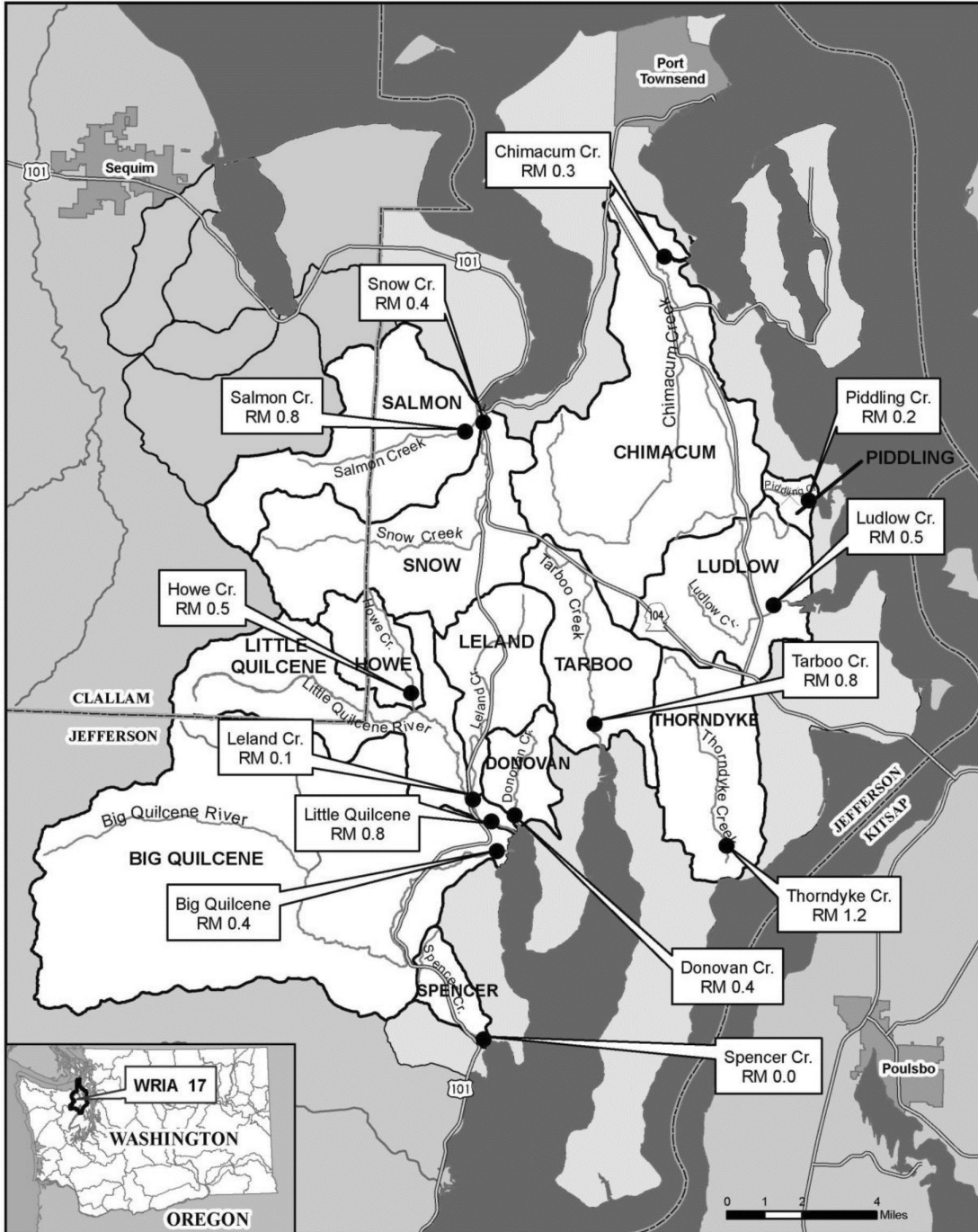
(3) Ecology, in consultation with the counties, Jefferson County PUD #1, tribal governments and the WRIA 17 planning unit (if active), will annually review the allocated and unallocated amounts for each reserve management area.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-060, filed 11/30/09, effective 12/31/09.]

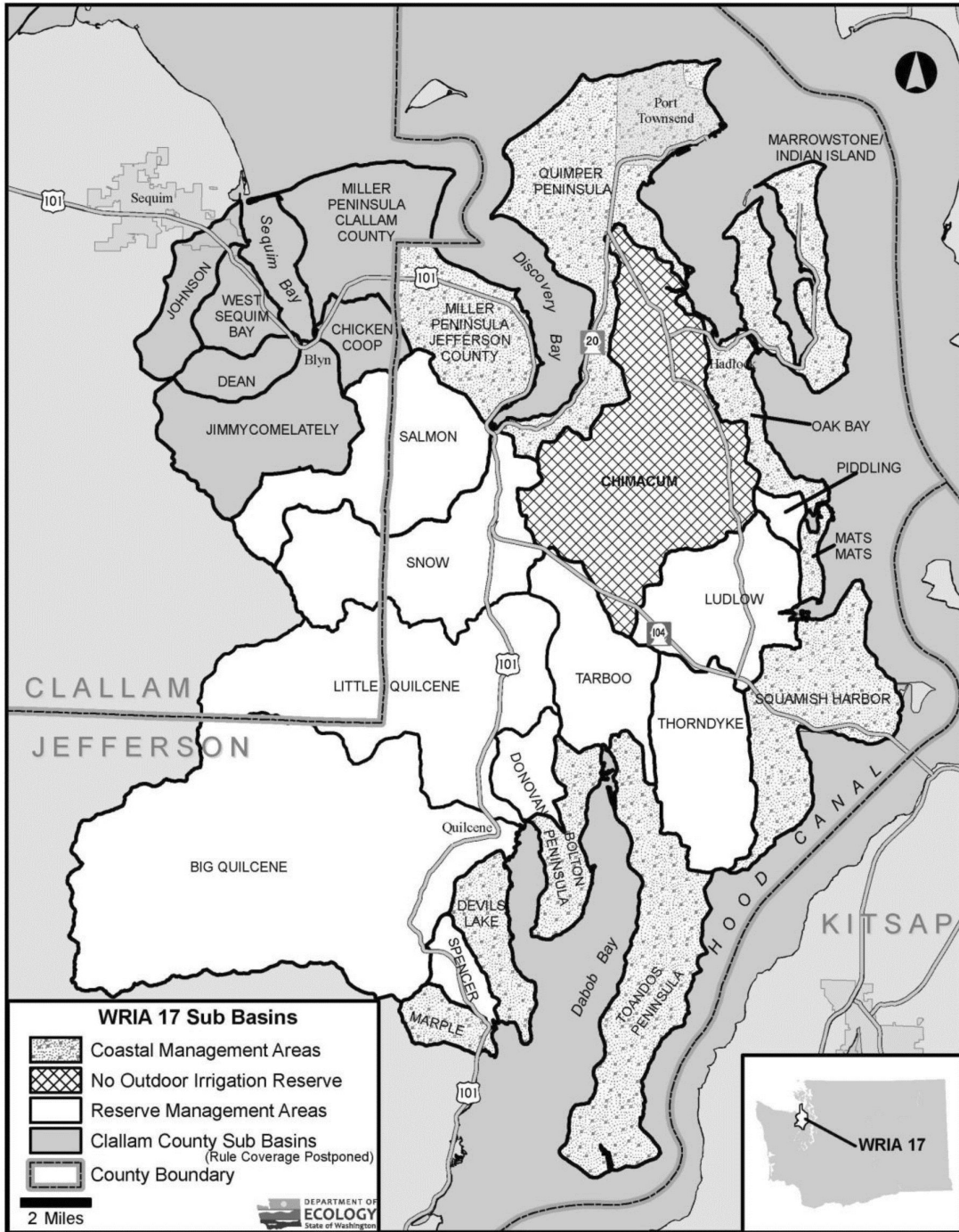
WAC 173-517-070 Maps. For the purpose of administering this chapter, two maps are provided. Map A shows the boundaries of the stream management units and the control points. Map B shows reserve management areas, coastal management areas, and the portion of WRIA 17 not covered by this chapter.

Map A

WRIA 17 Stream Management Units and Control Points



Map B



[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-070, filed 11/30/09, effective 12/31/09.]

PART B - INSTREAM FLOWS AND CLOSURES

WAC 173-517-080 Establishment of stream management units. Ecology hereby establishes the following stream management units, with accompanying control points. A control point is a designated location on a stream used to set and measure instream flow levels. Each control point location is identified by estimated river mile and approximate latitude and longitude in Table 1. The control points and boundaries of the stream management units are shown on Map A in WAC 173-517-070.

**Table 1
Stream Management Unit Information**

| Stream Management Unit Name | Control Point by River Mile (RM); Latitude North (Lat) and Longitude West (Long) | Stream Management Reach |
|------------------------------------|---|--|
| Big Quilcene River | RM 0.4 Lat 47° 49' 07" N, Long 122° 52' 17" W | From mouth to headwaters, including tributaries. |
| Chimacum Creek | RM 0.3 Lat 48° 03' 00" N, Long 122° 47' 07" W | From mouth to headwaters, including tributaries. |
| Donovan Creek | RM 0.4 Lat 47° 49' 58" N, Long 122° 51' 43" W | From mouth to headwaters, including tributaries. |
| Howe Creek | RM 0.5 Lat 47° 52' 43" N, Long 122° 55' 24" W | From mouth to headwaters, including tributaries. |
| Leland Creek | RM 0.1 Lat 47° 50' 18" N, Long 122° 53' 10" W | From mouth to headwaters, including tributaries. |
| Little Quilcene River | RM 0.8 Lat 47° 49' 48" N, Long 122° 52' 30" W | From mouth to headwaters, including tributaries except Leland and Howe creeks. |
| Ludlow Creek | RM 0.5 Lat 47° 55' 00" N, Long 122° 43' 00" W | From mouth to headwaters, including tributaries. |
| Piddling Creek #17.0200 | RM 0.2 Lat 47° 57' 27" N, Long 122° 41' 54" W | From mouth to headwaters, including tributaries. |
| Salmon Creek | RM 0.8 Lat 47° 58' 49" N, Long 122° 53' 49" W | From mouth to headwaters, including tributaries. |

| Stream Management Unit Name | Control Point by River Mile (RM); Latitude North (Lat) and Longitude West (Long) | Stream Management Reach |
|------------------------------------|---|--|
| Snow Creek | RM 0.4 Lat 47° 59' 02" N, Long 122° 53' 12" W | From mouth to headwaters, including tributaries. |
| Spencer Creek | RM 0.0 Lat 47° 44' 45" N, Long 122° 52' 33" W | From mouth to headwaters, including tributaries. |
| Tarboo Creek | RM 0.8 Lat 47° 52' 08" N, Long 122° 49' 03" W | From mouth to headwaters, including tributaries. |
| Thorndyke Creek | RM 1.2 Lat 47° 49' 24" N, Long 122° 44' 23" W | From mouth to headwaters, including tributaries. |

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-080, filed 11/30/09, effective 12/31/09.]

WAC 173-517-090 Instream flows. (1) Instream flows established in this chapter are flow levels which protect and preserve wildlife, fish, stock water, scenic, aesthetic, recreation, water quality and other environmental values, and navigational values.

(2) Instream flows established in this chapter are water rights, which protect instream values from future consumptive appropriations. The priority date of the instream flows is the effective date of this chapter.

(3) Instream flows will be protected from impairment by any new water rights commenced after the effective date of this chapter and by all future changes and transfers of senior and junior water rights, including both surface and groundwater rights. The following water rights are not subject to instream flows:

(a) Water rights existing before the effective date of this chapter as explained in WAC 173-517-020(4).

(b) Water rights appropriated from the reserves of water established in WAC 173-517-150.

(c) Future withdrawals for environmental restoration purposes under WAC 173-517-200, unless included as a permit condition.

(4) Instream flows are expressed in cubic feet per second (cfs), and measured at the control points identified in WAC 173-517-080.

(5) Instream flows are established in Tables 2 through 4 below, for the stream management units identified in WAC 173-517-080.

**Table 2
Instream Flows (in cfs) for Big and Little
Quilcene Rivers, with Ecology Gauge Number
and River Mile (RM)**

| Month | Big Quilcene River Ecology Gauge #17A060 RM 0.4 | Little Quilcene River Ecology Gauge #17D060 RM 0.8 |
|--------------|--|---|
| January | 120 | 61 |
| February | 120 | 61 |
| March | 190 | 100 |
| April | 190 | 100 |
| May | 190 | 92 |
| June | 190 | 66 |
| July | 190 | 66 |
| August | 167 | 27 |
| September | 94 | 30 |
| October | 180 | 48 |
| November | 120 | 61 |
| December | 120 | 61 |

Table 3
Instream Flows (in cfs) for Named Creeks with Ecology Stream Gauges
(including gauge number and River Mile (RM))

| Month | Chimacum Creek Ecology Gauge #17B050 RM 0.3 | Salmon Creek Ecology Gauge #17F060 RM 0.8 | Snow Creek Ecology Gauge #17E060 RM 0.4 | Tarboo Creek Ecology Gauge #17G060 RM 0.8 | Thorndyke Creek Ecology Gauge #17H060 RM 1.2 |
|--------------|--|--|--|--|---|
| January | 25 | 21 | 35 | 20 | 24 |
| February | 25 | 21 | 35 | 20 | 24 |
| March | 46 | 40 | 50 | 25 | 45 |
| April | 46 | 35 | 50 | 16 | 45 |
| May | 32 | 26 | 50 | 8 | 30 |
| June | 10 | 26 | 35 | 8 | 30 |
| July | 10 | 9 | 17 | 8 | 12 |
| August | 10 | 9 | 15 | 8 | 12 |
| September | 17 | 9 | 20 | 8 | 12 |
| October | 20 | 12 | 35 | 8 | 12 |
| November | 25 | 21 | 35 | 20 | 24 |
| December | 25 | 21 | 35 | 20 | 24 |

Table 4
Instream Flows (in cfs) for Other Named Creeks (including River Mile (RM))

| Month | Donovan Creek RM 0.4 | Howe Creek RM 0.5 | Leland Creek RM 0.1 | Ludlow Creek RM 0.5 | Piddling Creek RM 0.2 | Spencer Creek RM 0.0 |
|--------------|-----------------------------|--------------------------|----------------------------|----------------------------|------------------------------|-----------------------------|
| January | 15.5 | 17.1 | 33.1 | 32.1 | 5.8 | 13.3 |
| February | 10.2 | 11.3 | 21.8 | 21.2 | 3.8 | 8.8 |
| March | 29.8 | 32.6 | 58.3 | 56.8 | 12.4 | 26.1 |
| April | 29.8 | 32.6 | 58.3 | 56.8 | 12.4 | 26.1 |
| May | 19.7 | 21.5 | 38.5 | 37.9 | 8.2 | 17.2 |
| June | 19.7 | 21.5 | 38.5 | 37.9 | 8.2 | 17.2 |
| July | 6.1 | 6.8 | 13.9 | 13.5 | 2.1 | 5.2 |
| August | 6.1 | 6.8 | 13.9 | 13.5 | 2.1 | 5.2 |
| September | 6.1 | 6.8 | 13.9 | 13.5 | 2.1 | 5.2 |

| Month | Donovan Creek RM 0.4 | Howe Creek RM 0.5 | Leland Creek RM 0.1 | Ludlow Creek RM 0.5 | Piddling Creek RM 0.2 | Spencer Creek RM 0.0 |
|----------|-------------------------|----------------------|------------------------|------------------------|--------------------------|-------------------------|
| October | 6.1 | 6.8 | 13.9 | 13.5 | 2.1 | 5.2 |
| November | 15.5 | 17.1 | 33.1 | 32.1 | 5.8 | 13.3 |
| December | 15.5 | 17.1 | 33.1 | 32.1 | 5.8 | 13.3 |

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-090, filed 11/30/09, effective 12/31/09.]

WAC 173-517-100 Closures. (1) Based on past and current low flows, ecology has determined that no waters are reliably available for new consumptive uses from the streams and tributaries in WRIA 17 listed in Table 5, with the exception of certain times of year in the Big Quilcene River and Chimacum Creek. Therefore, all surface waters listed in Table 5 are closed to any further consumptive appropriation, except as provided in WAC 173-517-110.

Ecology finds that there is some water available above the instream flows at specific locations and times of year in the Big Quilcene River and Chimacum Creek that could be appropriated for storage or other projects that do not require year-round water supplies. These withdrawals require a water right permit from ecology and are subject to the seasonal restrictions in Table 5, the instream flows established in WAC 173-517-090, and the allocation limits defined in WAC 173-517-140.

(2) Closures in subsection (1) of this section include future withdrawals from groundwater that would have an adverse impact on closed surface water, including permit-exempt withdrawals.

(3) Exceptions to the closures are provided in WAC 173-517-110.

**Table 5
Surface Water Closures**

| Stream Management Unit Name | Affected Reach | Timing |
|-----------------------------|--|------------------------|
| Big Quilcene River | From mouth to headwaters, including tributaries. | June 16 to November 15 |
| Chimacum Creek | From mouth to headwaters, including tributaries. | March 1 to November 30 |
| Donovan Creek | From mouth to headwaters, including tributaries. | All Year |
| Howe Creek | From mouth to headwaters, including tributaries. | All Year |
| Leland Creek | From mouth to headwaters, including tributaries. | All Year |

| Stream Management Unit Name | Affected Reach | Timing |
|------------------------------------|--|---------------|
| Little Quilcene River | From mouth to headwaters, including tributaries except Leland and Howe creeks. | All Year |
| Ludlow Creek | From mouth to headwaters, including tributaries. | All Year |
| Piddling Creek #17.0200 | From mouth to headwaters, including tributaries. | All Year |
| Salmon Creek | From mouth to headwaters, including tributaries. | All Year |
| Snow Creek | From mouth to headwaters, including tributaries. | All Year |
| Spencer Creek | From mouth to headwaters, including tributaries. | All Year |
| Tarboo Creek | From mouth to headwaters, including tributaries. | All Year |
| Thorndyke Creek | From mouth to headwaters, including tributaries. | All Year |

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-100, filed 11/30/09, effective 12/31/09.]

PART C - FUTURE NEW WATER USE

WAC 173-517-110 Future new water use—Generally. A new surface or groundwater appropriation (including any permit-exempt groundwater withdrawal) or other new use may occur only if consistent with the surface and groundwater statutes and the applicable requirements of law and if any one of the following seven conditions (subsections (1) through (7) of this section) apply:

- (1) The proposed use is nonconsumptive.
- (2) The proposed surface water appropriation would not have an adverse effect on any of the surface waters closed in WAC 173-517-100(1).
- (3) The proposed groundwater withdrawal is located where it would not adversely affect any of the surface waters closed in WAC

173-517-100(1), by meeting either condition (a) or (b) of this subsection:

(a) The person or entity seeking to commence a proposed groundwater appropriation shows, through scientifically sound studies and technical analysis, that the groundwater use would not have an adverse effect on any of the surface waters closed in WAC 173-517-100(1), and receives approval of a water right.

(b) The proposed groundwater appropriation occurs in a coastal management area designated in Map B of WAC 173-517-070.

(4) The person or entity seeking to commence the new appropriation submits a mitigation plan as defined in WAC 173-517-030(12), and such plan is approved by ecology. If monitoring shows the mitigation is not effective, use of water under the appropriation shall then be subject to the instream flows. In the case of a closed basin, the use shall cease until an effective mitigation plan, approved by ecology, is put in place.

(5) The proposed water appropriation qualifies as an interruptible use and meets the criteria in WAC 173-517-140.

(6) The proposed water appropriation qualifies for the reserves established and conditioned in WAC 173-517-150.

(7) The proposed water appropriation is for an environmental restoration project and meets the criteria in WAC 173-517-200.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-110, filed 11/30/09, effective 12/31/09.]

WAC 173-517-120 Conservation standard. Ecology has determined that a conservation standard for new permit-exempt withdrawals authorized under RCW 90.44.050 is necessary to conserve available water and protect instream resources.

(1) For the purposes of this chapter the conservation standard for permit-exempt withdrawals is defined as follows:

(a) Water use from a permit-exempt well must be consistent with Jefferson County or Clallam County code, as applicable, and other applicable laws, including the statute on permit exemptions, RCW 90.44.050, and this rule.

(b) A permit-exempt well serving an individual user shall not exceed a maximum of 500 gpd or an annual average more than 350 gpd, for all permit-exempt uses authorized under RCW 90.44.050.

(c) A well serving a group domestic system shall not exceed a maximum use of 500 gpd or an annual average more than 350 gpd, for each residence, and shall not exceed a total use of 5,000 gpd for the group. The design and construction of group domestic systems must be consistent with applicable state department of health requirements and applicable Jefferson County or Clallam County requirements.

(2) New permit-exempt well use exceeding 500 gpd for an individual use, including individual uses associated with a group domestic withdrawal, may occur provided all of the following are met:

(a) Water use greater than 500 gpd must be offset through implementation of an approved mitigation plan as described in WAC 173-517-030(12). If monitoring of a mitigation plan shows the mitigation is not effective, departmental approval of the mitigation plan shall be suspended and the water use shall cease until the department approves a new or revised mitigation plan; and

(b) Total water use shall not exceed 5,000 gpd.

(3) New permit-exempt withdrawals must measure water use in accordance with WAC 173-517-180.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-120, filed 11/30/09, effective 12/31/09.]

WAC 173-517-140 Maximum future allocations for interruptible use. (1) Ecology finds there may be water available in excess of instream flows at certain times of year, which may be appropriated for interruptible uses. This water is only available from the Big Quilcene River from November 16 to June 15 and from Chimacum Creek from December 1 to February 29.

(2) A person or entity seeking a new interruptible appropriation must provide assurances that any negative effects on surface water that may result from withdrawals will be limited to the above locations and times.

(3) In no case shall total cumulative appropriations exceed the allocation limit specified in Table 7 for each river. However, ecology may lower these allocation limits on a case-by-case basis, upon consultation with the state department of fish and wildlife and tribes, whenever more protection of habitat-forming functions is needed.

(4) Interruptible uses must not impair existing water rights and instream flows set in WAC 173-517-090.

**Table 7
Open Period and Allocation Limit**

| Water Source | Open Period | Allocation Limit in Cubic Feet Per Second (cfs) and Gallons Per Day (gpd) |
|---------------------|--|--|
| Big Quilcene River | Open Period: November 16 to June 15 | Allocation Limit: 15 cfs; 9.69 million gpd |
| Chimacum Creek | Open Period: December 1 to February 29 | Allocation Limit: 3 cfs; 1.94 million gpd |

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-140, filed 11/30/09, effective 12/31/09.]

WAC 173-517-150 Reserves of water for future use. (1) Ecology has weighed the public interest that supports reserving a limited amount of water for new consumptive uses against the potential for negative impact to instream resources. For the subbasins discussed in this section ecology finds that the public interest advanced by limited reserves clearly overrides the potential for small negative impact to instream resources.

Based on this finding, ecology hereby allocates an amount of water for each reserve management area as indicated in Table 8. These reserves of water are not subject to the instream flows established in WAC 173-517-090 or closures established in WAC 173-517-100. The prior-

ity date of an appropriation from a reserve is the effective date of this chapter.

These reserves are available to a user only if the conditions set forth in this section are met, as well as any applicable requirements of law, including, but not limited to, all water resource laws and regulations.

(2) These reserves shall be available for use only after the county with jurisdiction commits to ecology in writing confirming that determinations of adequate potable water for building permits and subdivision approvals will be consistent with this chapter.

(3) Permit-exempt well withdrawals from reserves may not occur where a public water supplier can provide a connection in a timely and reasonable manner. Determinations of what it means to provide water service in a timely and reasonable manner shall be consistent with public water system plans, if applicable, and applicable state and local laws including, but not limited to, Jefferson County or Clallam County code.

(4) **Donovan, Ludlow, Piddling, Spencer, and Tarboo subbasins.** Withdrawals from the reserves of water in Donovan, Ludlow, Piddling, Spencer, and Tarboo reserve management areas shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120.

(5) **Salmon and Snow subbasins.** Withdrawals from the reserves of water in Salmon and Snow reserve management areas shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120, and the following: Up to 5,000 gallons per day of the Salmon Creek reserve, and up to 3,000 gallons per day of the Snow Creek reserve may be used for a permit-exempt withdrawal for commercial agriculture.

(a) Each user must register with ecology or its designee before water use for commercial irrigation begins.

(b) If the commercial agricultural use ceases, then the balance of the water returns to the reserve and use of the well shall be consistent with the conservation standard defined in WAC 173-517-120.

(6) **Little Quilcene and Thorndyke subbasins.** Withdrawals from the reserves of water in Little Quilcene (includes Leland and Howe creeks), and Thorndyke reserve management areas shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120, and the uses listed below through approval of a water right permit subject to a public interest evaluation that takes into account water availability for future domestic use in the subbasin:

(a) Municipal or community domestic water supply with domestic hookups consistent with the conservation standard defined in WAC 173-517-120.

(b) Agricultural irrigation.

(c) Industrial.

(7) **Big Quilcene subbasin.** Withdrawals from the reserve of water in the Big Quilcene reserve management area shall be limited to permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120, and the following:

(a) Permit exempt withdrawal for commercial agriculture.

(i) Each user is limited to 5,000 gpd as a permit-exempt well under RCW 90.44.050.

(ii) Each user must register with ecology or its designee before water use for commercial irrigation begins.

(iii) If the commercial agricultural use ceases, then the balance of the water returns to the reserve and use of the well shall be consistent with the conservation standard defined in WAC 173-517-120.

(b) The uses listed below through approval of a water right permit subject to a public interest evaluation that takes into account water availability for future domestic use in the subbasin:

(i) Municipal or community domestic water supply with domestic hookups consistent with the conservation standard defined in WAC 173-517-120.

(ii) Agricultural irrigation.

(iii) Industrial.

(8) **Chimacum subbasin.** Future withdrawals from the reserve of water in the Chimacum reserve management area shall be limited to domestic permit-exempt well use as defined in WAC 173-517-030(5), and such use shall not include outdoor irrigation, except for the following:

(a) When alternative water supply or a mitigation strategy is approved by ecology and implemented, this limitation to domestic use for the Chimacum basin no longer applies and permit-exempt well use consistent with the conservation standard defined in WAC 173-517-120 is allowed.

(b) If the report for U.S. Geological Survey groundwater model currently under construction for the Chimacum Creek subbasin identifies specific areas within the Chimacum subbasin where new well pumping will not have any effect on creek flows, withdrawals from new wells in those areas will not be deducted from the reserve and will not be subject to the restriction on outdoor irrigation. Instead, use of new permit-exempt wells will be regulated by the statutory permit exemption found in RCW 90.44.050. If such a change occurs, ecology shall notify the public of these findings through publication of a *Chimacum Creek Water Supply Bulletin*.

(9) The place of use of water taken from the reserve is limited to the reserve management area from which it is withdrawn unless ecology, in consultation with the applicable county, department of fish and wildlife, and tribes allow specific transfers between subbasins. An applicant for a water right that includes out of subbasin water use must comply with WAC 173-517-210.

(10) When each reserve is fully appropriated, the applicable reserve management areas are hereby closed to any further consumptive appropriation. Under such circumstances water for new uses may be available in accordance with WAC 173-517-110, such as:

- Mitigation is provided;
- The proposed use is nonconsumptive;
- Alternative sources of water are available; or
- An existing water right can be changed or transferred.

**Table 8
Reserve Management Areas, Reserve Quantities and Allowed Uses**

| Reserve Management Area Water Source (including tributaries) | Reserve Quantity Maximum Average Daily Use in Gallons (gpd) | Allowed Uses of Reserve* |
|--|---|--|
| Big Quilcene | 200,400 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 • Permit-exempt withdrawals for agriculture • Water right permits subject to public interest test for domestic availability |
| Chimacum | 1,940 gpd | <ul style="list-style-type: none"> • Permit-exempt withdrawals for domestic use, no outdoor irrigation |

| Reserve Management Area Water Source (including tributaries) | Reserve Quantity Maximum Average Daily Use in Gallons (gpd) | Allowed Uses of Reserve* |
|---|--|---|
| Donovan | 2,326 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 |
| Little Quilcene (includes Leland and Howe creeks) | 38,800 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 • Water right permits subject to public interest test for domestic availability |
| Ludlow | 7,830 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 |
| Piddling | 1,845 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 |
| Salmon | 9,050 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 • Permit-exempt withdrawals for agriculture |
| Snow | 4,140 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 • Permit-exempt withdrawals for agriculture |
| Spencer | 2,200 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 |
| Tarboo | 7,110 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 |
| Thorndyke | 31,670 gpd | <ul style="list-style-type: none"> • Permit-exempt uses under the conservation standard per WAC 173-517-120 • Water right permits subject to public interest test for domestic availability |

*This table lists the types of allowed uses. See the text of the rule for specific requirements for each use.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-150, filed 11/30/09, effective 12/31/09.]

WAC 173-517-160 Accounting for use under the reserves. (1)

Ecology shall maintain a record of all appropriations from the reserves.

(2) For an appropriation under a permit, ecology will account for water use under the reserve based on authorized quantities under water right permits or certificates, and metering data.

(3) For permit-exempt groundwater appropriations from reserves other than Chimaicum subbasin, ecology will deduct a standard amount of 250 gpd for each single domestic use. For a permit-exempt agricultural use, ecology will deduct 5,000 gpd for the Big Quilcene and Salmon Creek subbasins and 3,000 gpd for the Snow Creek subbasin. The amounts deducted from the reserves may be adjusted periodically by ecology, to reflect actual use during low flow conditions based on metering data or other measurements.

(4) For permit-exempt groundwater appropriations from the Chimaicum reserve, ecology will deduct a standard amount of 13 gpd for each single domestic use.

(5) If a water user permanently ceases use of water, ecology may credit the water to the appropriate reserve, upon demonstration, through written certification, that the well or surface water diversion has been decommissioned.

(6) Ecology shall notify the county (or counties) with jurisdiction, and publish a public notice, when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of a reserve is appropriated.

(7) If a new appropriation, located in a subbasin with a reserve, is fully offset through implementation of an approved mitigation plan as described in WAC 173-517-030(12), then ecology will not deduct the amount of new water use from the reserve.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-160, filed 11/30/09, effective 12/31/09.]

WAC 173-517-170 Lakes and ponds. RCW 90.54.020 (3)(a) requires, in part, that the quality of the natural environment shall be protected, and where possible, enhanced, and that lakes and ponds shall be retained substantially in their natural condition.

Any withdrawal from a lake or pond in WRIA 17 requires a water right permit from ecology, and must be consistent with the provisions of this chapter.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-170, filed 11/30/09, effective 12/31/09.]

WAC 173-517-180 Measuring water use. Each future new appropriation of groundwater or surface water, including permit-exempt well use, is required to install and maintain a measuring device (water meter) meeting specifications provided by ecology. The user must report to ecology, by December 31 of each year, meter readings demonstrating water use for the previous water year, October 1 through September 30, or as directed by ecology.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-180, filed 11/30/09, effective 12/31/09.]

WAC 173-517-200 Future surface water withdrawals for environmental restoration. Ecology finds that the public interest advanced by future withdrawals for environmental restoration projects (ERPs), as defined and conditioned in this section, clearly overrides the minimal negative impacts on instream flows.

(1) Ecology may approve a future withdrawal for an ERP only if it meets all the following:

(a) The proposed water use is for a bypass flow for salmonid habitat restoration, or for riparian planting, and the primary purpose of the project is restoration of salmonids;

(b) The proposed project will result in aquatic habitat benefits, and such benefits will exceed any detriment to aquatic habitat that may be caused by reductions in flow at specific locations and times of withdrawal; and

(c) The proposed use qualifies for a temporary permit.

(2) Ecology, in consultation with the department of fish and wildlife and tribes, will evaluate proposed ERPs. ERPs approved by

ecology are not subject to closures or instream flows set in this chapter, unless otherwise conditioned by the permit.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-200, filed 11/30/09, effective 12/31/09.]

WAC 173-517-210 Out of subbasin water use. (1) Ecology recognizes that rainfall patterns, and the rain shadow effect of the Olympic Mountains, affect water availability in WRIA 17. In addition, population growth patterns in WRIA 17 have historically shown highest growth in areas with less rainfall. For these reasons, ecology recognizes that future water right applicants may request using water from one subbasin in a different subbasin, and that such out of subbasin water use may have lasting effects on the community. Such use may occur only if consistent with all applicable requirements of state and federal law.

(2) An applicant for a water right that includes out of subbasin water use shall:

(a) Provide the public an opportunity to review and comment on the proposed application. The applicant shall:

- Advertise and convene a public meeting to explain the proposal; and
- Allow for public comment on the potential for the proposed use to be harmful to the public interest.

(b) The applicant shall provide ecology a report which identifies:

- Alternatives examined;
- Any alternatives/modifications that the applicant has rejected and why; and
- Any alternatives/modifications that the applicant accepts and, if relevant, have been made.

(c) The report in (b) of this subsection shall also summarize the comments received through the public meeting in (a) of this subsection on the potential for the proposed use to be harmful to the public interest.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, and 90.44 RCW. WSR 09-24-080 (Order 04-02), § 173-517-210, filed 11/30/09, effective 12/31/09.]