

WAC 173-165-120 Permittee rights and responsibilities. (1) A permittee may develop all or a portion of the project and put water to beneficial use in compliance with his/her water right permit or change authorization. Development of the project and the measure of the beneficial use may be less than authorized, but may not exceed the authorized quantity or conditions of use.

(2) Once the project development ends and beneficial use of the water is established under the water right permit or change authorization, the permittee shall submit a notarized proof of appropriation form to the appropriate ecology regional office.

(3) Ecology will review the proof of appropriation form and, if determined appropriate, will respond in writing directing the permittee to hire a certified water right examiner. Ecology may waive the requirement to secure the services of a certified water right examiner if ecology has conducted the proof examination or determines that one is not necessary to issue a certificate of water right.

(4) As directed by ecology, the permittee must secure the services of a certified water right examiner from the ecology-maintained CWRE list on ecology's website to perform the proof examination and submit a proof report of examination to ecology.

(5) If ecology returns the proof report of examination to the certified water right examiner for correction under WAC 173-165-130(3), ecology will send the permittee a copy of the communication with the certified water right examiner.

(6) Until ecology has made a final decision (WAC 173-165-130), the permittee may withdraw the proof report of examination submitted by the certified water right examiner at any time during ecology's review period.

(a) To withdraw the CWRE proof report of examination, the permittee must submit to ecology the request to withdraw in writing, including the effective date and future intent of water use.

(b) Upon written withdrawal by the permittee, ecology will cease review of the proof report of examination.

(i) A copy of the withdrawn report shall remain within the associated water right permit or change authorization file.

(ii) Ecology may review the withdrawn report for comparison to any future report submitted and require explanations for any conflicting statements of fact or recommendations.

(7) Within thirty days of withdrawing the proof report or examination, the permittee must:

(a) Schedule a technical assistance meeting with the regional water resources program; 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, which may include requesting an extension of the development schedule.

(8) Should the permittee not comply with this section, ecology may:

(a) Issue a final determination through an administrative order based on the information submitted, per WAC 173-165-130(5); or

(b) Cancel all or a portion of the change authorization.

[Statutory Authority: RCW 90.03.665(11), 43.27A.090(11), and 43.21A.064(9). WSR 12-24-031 (Order 11-03), § 173-165-120, filed 11/28/12, effective 12/29/12.]