

RCW 90.03.370 Reservoir permits—Secondary permits—Expedited processing—Underground artificial storage and recovery project standards and rules—Exemptions—Report to the legislature. (1) (a) All applications for reservoir permits are subject to the provisions of RCW 90.03.250 through 90.03.320. But the party or parties proposing to apply to a beneficial use the water stored in any such reservoir shall also file an application for a permit, to be known as the secondary permit, which shall be in compliance with the provisions of RCW 90.03.250 through 90.03.320. Such secondary application shall refer to such reservoir as its source of water supply and shall show documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in said reservoir to impound enough water for the purposes set forth in said application. When the beneficial use has been completed and perfected under the secondary permit, the department shall take the proof of the water users under such permit and the final certificate of appropriation shall refer to both the ditch and works described in the secondary permit and the reservoir described in the primary permit. The department may accept for processing a single application form covering both a proposed reservoir and a proposed secondary permit or permits for use of water from that reservoir.

(b) The department shall expedite processing applications for the following types of storage proposals:

(i) Development of storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored;

(ii) Adding or changing one or more purposes of use of stored water;

(iii) Adding to the storage capacity of an existing storage facility; and

(iv) Applications for secondary permits to secure use from existing storage facilities.

(c) A secondary permit for the beneficial use of water shall not be required for use of water stored in a reservoir where the water right for the source of the stored water authorizes the beneficial use.

(2) (a) For the purposes of this section, "reservoir" includes, in addition to any surface reservoir, any naturally occurring underground geological formation where water is collected and stored for subsequent use as part of an underground artificial storage and recovery project. To qualify for issuance of a reservoir permit an underground geological formation must meet standards for review and mitigation of adverse impacts identified, for the following issues:

(i) Aquifer vulnerability and hydraulic continuity;

(ii) Potential impairment of existing water rights;

(iii) Geotechnical impacts and aquifer boundaries and characteristics;

(iv) Chemical compatibility of surface waters and groundwater;

(v) Recharge and recovery treatment requirements;

(vi) System operation;

(vii) Water rights and ownership of water stored for recovery; and

(viii) Environmental impacts.

(b) Standards for review and standards for mitigation of adverse impacts for an underground artificial storage and recovery project shall be established by the department by rule. Notwithstanding the provisions of RCW 90.03.250 through 90.03.320, analysis of each

underground artificial storage and recovery project and each underground geological formation for which an applicant seeks the status of a reservoir shall be through applicant-initiated studies reviewed by the department.

(3) For the purposes of this section, "underground artificial storage and recovery project" means any project in which it is intended to artificially store water in the ground through injection, surface spreading and infiltration, or other department-approved method, and to make subsequent use of the stored water. However, (a) this subsection does not apply to irrigation return flow, or to operational and seepage losses that occur during the irrigation of land, or to water that is artificially stored due to the construction, operation, or maintenance of an irrigation district project, or to projects involving water reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of claimed artificial recharge occurring due to the construction, operation, or maintenance of an irrigation district project or operational and seepage losses that occur during the irrigation of land, as well as other forms of claimed artificial recharge already existing at the time a groundwater subarea is established.

(4) Nothing in chapter 98, Laws of 2000 changes the requirements of existing law governing issuance of permits to appropriate or withdraw the waters of the state.

(5) The department shall report to the legislature by December 31, 2001, on the standards for review and standards for mitigation developed under subsection (3) of this section and on the status of any applications that have been filed with the department for underground artificial storage and recovery projects by that date.

(6) Where needed to ensure that existing storage capacity is effectively and efficiently used to meet multiple purposes, the department may authorize reservoirs to be filled more than once per year or more than once per season of use.

(7) This section does not apply to facilities to recapture and reuse return flow from irrigation operations serving a single farm under an existing water right as long as the acreage irrigated is not increased beyond the acreage allowed to be irrigated under the water right.

(8) In addition to the facilities exempted under subsection (7) of this section, this section does not apply to small irrigation impoundments. For purposes of this section, "small irrigation impoundments" means lined surface storage ponds less than ten acre feet in volume used to impound irrigation water under an existing water right where use of the impoundment: (a) (i) Facilitates efficient use of water; or (ii) promotes compliance with an approved recovery plan for endangered or threatened species; and (b) does not expand the number of acres irrigated or the annual consumptive quantity of water used. Such ponds must be lined unless a licensed engineer determines that a liner is not needed to retain water in the pond and to prevent groundwater contamination. Although it may also be composed of other materials, a properly maintained liner may be composed of bentonite. Water remaining in a small irrigation impoundment at the end of an irrigation season may be carried over for use in the next season. However, the limitations of this subsection (8) apply. Development and use of a small irrigation impoundment does not constitute a change or amendment for purposes of RCW 90.03.380 or 90.44.055. [2003 c 329 § 1; 2002 c 329 § 10; 2000 c 98 § 3; 1987 c 109 § 93; 1917 c 117 § 38; RRS § 7390. Formerly RCW 90.28.080.]

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