

Reviser's note: Surface and groundwater rules bearing history notes with filing dates of 3/23/60 or 8/30/60 are rules filed by the then existing department of conservation. Sections 8 and 19, chapter 242, Laws of 1967 (RCW 43.27A.080 and 43.27A.170) affected the application of these rules to the department of water resources.

WAC 508-12-010 Regulation of water right diversions—Personnel. Regulation and control of waters according to rights thereto, shall be made through watermasters and stream patrolmen, or a staff member of the department of ecology. Chapter 90.08 RCW and RCW 43.21.130.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-010, filed 6/9/88; Rule 1, filed 3/23/60. Formerly WAC 134-12-010.]

WAC 508-12-020 Regulation of water right diversions—Regulation of unincorporated partnership ditches. Watermasters shall not attempt to regulate water beyond the points of diversion from the natural stream on unincorporated partnership ditches. Such regulations may be carried on by ditch patrolmen as outlined under RCW 90.03.440. When approved by the department of ecology and water users a district watermaster may serve as a stream or ditch patrolman.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-020, filed 6/9/88; Rule 2, filed 3/23/60. Formerly WAC 134-12-020.]

WAC 508-12-030 Regulation of water right diversions—Controlling works—Measuring devices. Where controlling works or measuring devices are not installed or maintained to the satisfaction of the department of ecology, proper notice shall be given to the owner to install or repair such controlling works or measuring device. This notice shall allow not less than ten days time to make necessary repairs or installations. In the event the work outlined in the notice is not completed in the specified time, the diversion shall be closed to further flow of water, until such time as the notice has been fully complied with.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-030, filed 6/9/88; Rule 3, filed 3/23/60. Formerly WAC 134-12-030.]

WAC 508-12-040 Regulation of water right diversions—Controlling works—Headgates. Controlling works or headgates shall be so constructed that they can be regulated and locked in place by the watermaster or stream patrolman.

[Rule 4, filed 3/23/60. Formerly WAC 134-12-040.]

WAC 508-12-050 Regulation of water right diversions—Closure of diversions. The watermaster or a representative of the department of ecology, shall close such diversions for noncompliance by issuing an order.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-050, filed 6/9/88; Rule 5, filed 3/23/60. Formerly WAC 134-12-050.]

WAC 508-12-060 Regulation of water right diversions—Penalty for opening. Any water user opening a diversion after it has been closed or posted, under the above

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rules, shall be guilty of a misdemeanor under chapter 90.03 RCW.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-060, filed 6/9/88; Rule 6, filed 3/23/60. Formerly WAC 134-12-060.]

WAC 508-12-080 Determination of existing rights to the use of water. Upon the filing of a petition by one or more persons requesting the rights to the use of the waters of a stream or other source of water, the department of ecology shall conduct a reconnaissance survey for the purpose of determining whether or not the interests of the public can best be served by the adjudication of the individual rights thus involved. If an adjudication proceeding is instigated, the department of ecology shall determine the description of lands to be included as well as the record ownerships. Each owner and interested party will be made a party to the proceedings and a lis pendens will be filed with the county auditor. (RCW 90.03.110 and 90.03.120.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-080, filed 6/9/88; Rule 8, filed 3/23/60. Formerly WAC 134-12-080.]

WAC 508-12-090 Surface water appropriation procedure—Rights of way. Permits secured through this office do not carry any right of way privileges. Right of way for diversion, storage or transmission facilities must be obtained by the permittee from the owner of the property on which such structure or ditch will be located, or by condemnation proceedings.

[Rule 9, filed 3/23/60. Formerly WAC 134-12-090.]

WAC 508-12-100 Surface water appropriation procedure—Applications for permit—Forms. Applications for permit to appropriate surface water shall be made on forms provided by the department of ecology. (Supplements paragraph 5, RCW 43.21.130.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-100, filed 6/9/88; Rule 10, filed 3/23/60. Formerly WAC 134-12-100.]

WAC 508-12-110 Surface water appropriation procedure—Number of applications. It shall be the general rule that an application must be filed for each separate source of water. In special instances one application may cover more than one source of water such as, a group of springs in close relationship to each other and with no intervening property ownership; and, to divert from two or more streams whose confluence is upon lands of the applicant; and, where a common distribution system may be employed. The amount, point of diversion, and purpose of use from each source must be indicated in the application.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-110, filed 6/9/88; Rule 11, filed 3/23/60. Formerly WAC 134-12-110.]

WAC 508-12-120 Surface water appropriation procedure—Maps or sketches. A map must accompany the application showing source of supply, point of diversion, tie to a legal land corner, and general plan of the proposed development. If for irrigation, it must clearly show the lands to be

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irrigated. For small projects, maps or sketches prepared by the applicant on forms provided by this office will be acceptable if legible and accurate. For larger projects, maps on any reasonable scale prepared by engineers in planning the project may be required. (Supplemental to RCW 90.03.260.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-120, filed 6/9/88; Rule 12, filed 3/23/60. Formerly WAC 134-12-120.]

WAC 508-12-130 Surface water appropriation procedure—Applications filed by nonowners. Where the applicant is other than the legal owner or part owner of the land on which the water is to be used, the application shall bear the signature and address of the legal owner in addition to the signature of the applicant. (Supplements RCW 90.20.-020.)

[Rule 13, filed 3/23/60. Formerly WAC 134-12-130.]

WAC 508-12-140 Surface water appropriation procedure—Priority of application. The priority of an application is established as of time and date received when accompanied by initial examination fee. In the case of governmental agencies, who are required to make payment by voucher, it shall be accepted as payment of initial fee when transmitted with the application.

[Rule 14, filed 3/23/60. Formerly WAC 134-12-140.]

WAC 508-12-150 Surface water appropriation procedure—Affidavit of publication of notice. An affidavit of publication of the notice of water right application executed by the publisher must be filed with the department of ecology as proof of due notice to the public. (RCW 90.03.280.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-150, filed 6/9/88; Rule 15, filed 3/23/60. Formerly WAC 134-12-150.]

WAC 508-12-160 Surface water appropriation procedure—No action on permits allowable prior to thirty days after last publication. No action shall be taken toward issuance of a permit or granting a petition for change in point of diversion, purpose or place of use until thirty days after date of last publication of notice as provided in RCW 90.03.-280 and 90.03.380. In all instances, RCW 90.03.470(12) shall apply.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-160, filed 6/9/88; Rule 16, filed 3/23/60. Formerly WAC 134-12-160.]

WAC 508-12-170 Surface water appropriation procedure—Protests or objections. (1) Protests or objections to granting a permit or petition for change must be submitted within the prescribed thirty day period and must include a statement of the basis for said objections.

(2) All protests or objections will be thoroughly investigated by the department of ecology which may hold a meeting among the parties for fact-finding purposes.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-170, filed 6/9/88; Rule 17, filed 3/23/60. Formerly WAC 134-12-170.]

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WAC 508-12-180 Surface water appropriation procedure—Amendments or transfers. Applications for amendments or transfers shall be made on forms provided by the department of ecology. (Supplements RCW 90.03.380.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-180, filed 6/9/88; Rule 18, filed 3/23/60. Formerly WAC 134-12-180.]

WAC 508-12-190 Surface water appropriation procedure—Amendments as to source, quantity, etc. (1) In the event an applicant or permittee should desire to amend the terms of his application or permit regarding source, quantity, point of diversion, purpose, or place of use, the procedure shall be as outlined in RCW 90.03.380 excepting that no certificate of change will issue but the amendments shall be incorporated in the terms of the permit.

(2) Amendment of a permit may be made without affecting priority, only after full consideration of the proposed changes in accordance with the provisions outlined in RCW 90.03.290.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-190, filed 6/9/88; Rule 19, filed 3/23/60. Formerly WAC 134-12-190.]

WAC 508-12-200 Surface water appropriation procedure—Division of land ownership before certificate issued. Where a permit has been issued to a person and the land to which the water right is to become appurtenant has been divided before the issuance of a water right certificate, separate certificates may be issued to each holder of land with the proper share of the water allotted, providing assignments of each share are recorded with the department of ecology. (Supplements RCW 90.03.380.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-200, filed 6/9/88; Rule 20, filed 3/23/60. Formerly WAC 134-12-200.]

WAC 508-12-210 Surface water appropriation procedure—Seasonal permits. Seasonal permits for change of point of diversion, purpose and/or place of use of water, shall be in writing and signed by the director of the department of ecology or a duly authorized representative. (RCW 90.03.-390.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-210, filed 6/9/88; Rule 21, filed 3/23/60. Formerly WAC 134-12-210.]

WAC 508-12-220 Groundwater appropriation procedure—Applicability of foregoing rules. The general application of rules numbered WAC 508-12-080 through 508-12-210 inclusive on surface water applications, shall also apply to the groundwater appropriation procedure.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-220, filed 6/9/88; Rule 22, filed 3/23/60. Formerly WAC 134-12-220.]

WAC 508-12-230 Groundwater appropriation procedure—Relative rights—Ground and surface water appropriators. Where controversy arises over the relative rights as between ground and surface water appropriators, the basic law of "first in time, first in right" shall apply.

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[Rule 23, filed 3/23/60. Formerly WAC 134-12-230.]

WAC 508-12-240 Groundwater appropriation procedure—Where proposed construction is near surface water supply. Where a proposed well is to be constructed near a lake, stream, or spring, which is heavily or fully appropriated, the department of ecology may specify a minimum distance between the well location and the surface water supply, or, require that the well casing be installed in such a manner as to insure a break in hydraulic continuity between the well and the shallow groundwaters contributing to the surface water supply.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-240, filed 6/9/88; Rule 24, filed 3/23/60. Formerly WAC 134-12-240.]

WAC 508-12-250 Groundwater appropriation procedure—Where wells penetrate artesian water zones. Wells penetrating artesian water zones: RCW 90.44.070.

(1) Wells taking water from artesian zones shall contain water-tight casings from the ground surface down through and properly sealed into the confining layer.

(2) Issuance of permits to take water from an artesian zone shall not be stopped when existing wells penetrating said artesian zone no longer flow at ground surface; rather, a reasonable seasonal lowering of the water table will be permissible to more fully utilize the reservoir capacity of the aquifer.

(3) Where the waste of water through improperly constructed wells has been found and wasting of said water is depriving others of water to which they are entitled, or causing an unreasonable drop in the water table, or threatens permanent damage to the aquifer, the department of ecology shall direct the owner to make necessary repairs to correct the situation. (RCW 90.44.120.)

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-250, filed 6/9/88; Rule 25, filed 3/23/60. Formerly WAC 134-12-250.]

WAC 508-12-260 Reservoir permits—Where required. A reservoir permit will be required whenever it is proposed to construct a barrier across a stream, channel, or water course, and which will actually retain for a beneficial use a portion of the annual runoff of the stream or water course. (For positive determination of the necessity of a reservoir permit, a reservoir shall be defined as any dam or dike storing water to a depth of ten or more feet at its deepest point, or one that is retaining ten or more acre-feet of water.) This will also apply to a reservoir adjacent to a stream channel when water will be required to fill the reservoir in addition to a constant diversion to keep it full.

[Rule 26, filed 3/23/60. Formerly WAC 134-12-260.]

WAC 508-12-270 Reservoir permits—Limits on filling. Unless otherwise specified, a reservoir permit will allow the permittee to fill the reservoir once annually and the permit shall specifically state the period during which the water may be used to fill the reservoir. If water in excess of one filling of the reservoir is required, a further application for the additional water must be filed.

[Rule 27, filed 3/23/60. Formerly WAC 134-12-270.]

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WAC 508-12-390 Enforcement. In enforcement of this chapter, the department of ecology may impose such sanctions as are appropriate under authorities vested in it, including but not limited to the issuance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-390, filed 6/9/88.]

WAC 508-12-400 Appeals. All final written decisions of the department of ecology pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter shall be subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-400, filed 6/9/88.]

WAC 508-12-410 Regulation review. The department of ecology shall initiate a review of the rules established in this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions.

[Statutory Authority: Chapter 43.27A RCW. 88-13-037 (Order 88-11), § 508-12-410, filed 6/9/88.]