**POL-1045** **WATER RESOURCES PROGRAM POLICY**

## EMERGENCY WATER SOURCE AUTHORIZATION

Contact: Policy and Planning Section Effective Date: 9-15-06

References: RCW 43.70.310, RCW 90.03, RCW 90.44, RCW 90.54.020(3)(a), WAC 173-152-050 (2)(a).

Purpose:
To provide guidance to program personnel in the permitting of emergency water supply sources for use by public water systems during catastrophic emergencies.

Application:
Public water system officials are becoming increasingly aware that their existing water supply sources may be vulnerable to a large scale catastrophic disaster. Many of these system managers are interested in developing new sources of water for use only during such emergency events. This policy applies to requests for emergency water source development and use necessary for the preservation of public health and safety. This policy is related only to those circumstances in which emergency ground and/or surface water sources may be used by public water systems during a catastrophic event that disrupts or renders unusable existing potable/domestic and fire flow water supplies and/or associated facilities. This policy does not apply to instances where the submission of a change application under RCW 90.03.380 would be appropriate.

Nothing in this policy is intended to restrict access to water sources in emergency situations where loss of life or property is imminent.

Public Water Systems should plan for and develop emergency water supply sources in a manner consistent with applicable state and federal Emergency Response Planning laws, regulations, and guidelines.

The use(s) of emergency water sources by public water systems should occur in a manner consistent with the Emergency Response Plan component of a Water System Plan that has been prepared and approved under state and federal laws, regulations, and guidelines.

1. Emergency Water Source Use (Defining Qualifying Emergencies)

Emergency water source use by public water systems may occur pursuant to catastrophic events that disrupt, compromise, damage, or otherwise affect existing public water supplies and related transmission, distribution, storage, fire flow, and treatment facilities in a manner that risks the public health and safety of local and transient populations.

Authorization for emergency water source use under this policy does not extend to water shortages caused by drought conditions, or to emergency conditions that may be effectively relieved through use of emergency water interties. Inadequate water rights for

a public water system to serve existing hook-ups or to accommodate future population growth or other future uses do not constitute a public health or safety emergency.

Emergency supply sources may not be used to circumvent the water right permitting process, nor used for any beneficial uses that occur outside the context of an actual emergency event (described above).

Emergency source water may only be put to beneficial use in lieu of water supplies and/or sources that are unavailable due to emergency conditions.

Identification and intended use of emergency water sources should be clearly documented by public water systems within Comprehensive Water System Plans, Small Water System Plans, and/or Emergency Response Plans prepared consistent with applicable State Board of Health requirements, Department of Health statutes, guidelines, and regulations, and federal law.

2. Application process

Emergency water sources may include ground water and/or surface water supply sources, used independently or conjunctively, depending on need, volume, and availability. Separate applications must be submitted for each source.

Requests for emergency supply sources will be processed prior to competing applications as outlined in WAC 173-152-050 (2)(a). A complete water right application form and examination fee is required. Evaluation of requests for emergency water sources will follow Water Resources Policy 1000 – Water Right Administration Policy, including assessments of water availability, public interest, impairment of existing rights, and beneficial use of the water, prior to granting a permit.

If a request is made for a source of supply from a closed or limited source, an evaluation of the effect of the withdrawal and an assessment of the public interest in allowing a withdrawal from a closed or limited source will be made. A permit may be authorized in a situation where it is clear that overriding consideration of the public interest, as defined under RCW 90.54.020(3)(a), will be served. If a finding of Overriding Consideration of Public Interest is made, a permit may be issued to allow use of the source for emergency use as described in this policy. If impairment of an existing water right would preclude issuance of an water right for emergency use under this policy, the applicant may obtain permission from the holder of the right by offering compensation or other consideration, mitigate for the effects, or condemn the interfered with water right.

Permits and certificates will be issued as 'Standby – Reserve', with non-additive quantities. The permit will remain in 'permit phase' until it is perfected. Provided that the source and infrastructure is maintained in ready-to-serve status to respond to an emergency, and the water system is actively including that source and permit in their emergency planning, extensions are permissible in accordance with Water Resources Policy 1050 – Extension of Time on Permits.

## 3. Construction and Development of Emergency Water Source Facilities

Public water systems planning to install emergency water supply sources should submit an application for a water right permit. A preliminary permit may be issued, pursuant to RCW 90.03.290, to undertake drilling, testing, and studies and other appropriate activities to determine the reliability of a candidate well or wells for emergency supply purposes.

For emergency groundwater supply sources, emergency supply wells should be developed in accordance with all appropriate state laws and regulations relating to well design, wellhead protection, monitoring, sampling, and metering. For emergency surface water supply sources, intake structures should be metered and designed to meet Department of Fish and Wildlife screen design criteria and other relevant state, local, and federal permit requirements.

The planning, design, and construction of emergency water sources is subject to meeting applicable State Environmental Policy Act requirements, unless exempt under WAC 197-11-880 or another exemption.

## 4. Authorization to Utilize Emergency Water Source

Emergency Water Source use may occur pursuant to:

- Governor's Emergency Declaration;
- Determination of a local (government) Incident Response Commander or other authorized local official(s) that emergency conditions have so damaged or compromised existing water supplies and/or related facilities, as well as access to and use of emergency interties (if existing), that public health and safety are at risk, and thereby warrant the use of emergency water source(s).

Incident Response Commanders or other officials responsible for authorizing emergency source use should notify the appropriate regional offices of the Department of Ecology and the Department of Health prior to authorizing use of an emergency source. If such contact is not feasible, notice should be provided as soon as possible thereafter.

Emergency water source use should occur only within the service area of the local government and/or public utility.

## 5. Time Duration

The time duration for the use of emergency water sources will vary according to the severity of the emergency event and resulting condition(s), the response and recovery

capability of public water systems and local governments, and the status of public health and safety risks and conditions.

When the water supply emergency no longer exists, use of emergency water sources should be immediately terminated and the Department of Ecology and Department of Health so notified.

The public water system officials should prepare a report consistent with Department of Health guidelines documenting the volume of water consumed, the quality of the water produced, the manner in which the water was used and/or consumed, and the reliability and ability of the emergency sources in meeting emergency need(s). This report should be submitted to the Department of Ecology and the Department of Health within 3 months after formal termination of locally or state declared emergency conditions.

## 5. Enforcement Action

Formal or informal enforcement action may be taken against public utilities that make beneficial use of emergency sources during non-emergency conditions. Procedures for initiating and completing formal enforcement actions are contained in PRO-2005.

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Special Note: These policies and procedures are used to guide and ensure consistency among water resources program staff in the administration of laws and regulations. These policies and procedures are not formal administrative regulations that have been adopted through a rule-making process. In some cases, the policies may not reflect subsequent changes in statutory law or judicial findings, but they are indicative of the department's practices and interpretations of laws and regulations at the time they are adopted. If you have any questions regarding a policy or procedure, please contact the department.