

POLICY FOR THE EVALUATION OF CHANGES TO ENABLE IRRIGATION OF  
ADDITIONAL ACREAGE OR THE ADDITION OF NEW PURPOSES OF USE TO EXISTING  
WATER RIGHTS

Resource Contact: Policy and Planning Section

Effective Date: 07/12/04

Revised: 2/8/06

References: RCW 90.03.380(1); RCW 90.44.100; GUID-1210.

Purpose: To document generally applicable procedures that the Department of Ecology will use in reviewing water right change applications pursuant to RCW 90.03.380(1) that enable irrigation of additional acreage or the addition of new purposes of use to existing water rights.

Applications to change a water right may be approved if the following conditions apply:

- There will be no increase in annual consumptive quantity (ACQ).
- There will be no impairment of other water rights.

Application: This policy and the procedures below apply to change applications involving the addition of irrigated lands or new purposes to a water right.

- Ecology interprets the “addition of new uses” under RCW 90.03.380(1) to mean the addition of a previously unauthorized purpose(s) of use, while retaining an existing purpose of use. If an existing purpose of use will not be retained, changing a water right to one or more new purposes of use does not trigger an annual consumptive quantity determination.<sup>1</sup>
- Acres may be added to partially perfected groundwater irrigation permits through a change in manner of use under RCW 90.44.100, so long as the permit is good standing based on the criteria in RCW 90.03.320 and as long as the ACQ is not exceeded for the perfected portion of the permit and the acres being added. The undeveloped acreage may continue to be developed consistent with the schedule approved by Ecology. Changes to add purposes of use to groundwater permits can only be authorized following perfection of the permit because it alters the intent of the original project which is prohibited (e.g. R.D. Merrill Co. v. PCHB). Changes triggering ACQ for surface permits can only be authorized following perfection of the permit as required under RCW 90.03.380.

This policy supplements:

- POL-1200, Policy for the Evaluation of Changes or Transfers to Water Rights.

<sup>1</sup>POL 1070 allows Ecology to recognize the agreed division of a water right where multiple land owners own land to which the water right is appurtenant. Where Ecology has recognized such a division and a change is filed on a portion of the original right, the permit writer only performs an ACQ evaluation on the portion of the original right proposed for change and only if such an evaluation is required by statute as described herein.

- Procedure PRO-1210 Calculating and Applying the Annual Consumptive Quantity (ACQ)

**Procedures to evaluate applications to change a point of diversion are not contained in this policy. This policy supersedes any previous policy statement with which it conflicts.**

Definitions: The following definitions are intended within this policy:

- "Annual Consumptive Quantity" means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right.
- "Diversion" means to divert water from one course to another. Diversion, when used without qualification, includes the diversion of surface water and the withdrawal of ground water.
- "Return Flows" means waters that, after having been diverted for a beneficial use, escape control of the water right holder and return to a public water body. Return flows may include, for example, waters lost through conveyance systems inefficiency or waters used for a beneficial purpose that are not fully consumed by the purpose of use.

Evaluation:

- 1) The application process to add irrigated acres or the addition of new purposes of use is the same as for any other change proposal, but it also includes additional steps, noted below.
  - a) The applicant uses Ecology's standard application for change of water right form and the change is processed in accordance with Procedure PRO-1000 and other applicable rules and policies.
  - b) Ecology evaluates the application in accordance with Policy POL-1200, general change policies, in addition to this policy, and PRO-1210.
- 2) Calculate the amount of water available to irrigate additional acres or to add the new purpose(s) of use(s). This calculation should include the following elements of water use:
  - a) The annual quantity of water authorized for use under the water right
  - b) The amount of water put to beneficial use
  - c) The estimated return flow
  - d) The annual consumptive quantity<sup>2</sup>
- 3) Determine the extent and validity of the right proposed for change, including whether the right has been:
  - a) Beneficially used
  - b) Relinquished
  - c) Abandoned.

<sup>2</sup> e.g., Water that is transpired by plants at the place of use, water that escapes from a reasonably efficient conveyance system or from the place of use but does not become return flows and water that is contained within a product or within a production byproduct.

4) Determine the annual consumptive quantity by following these steps:

- a) Determine the annual quantity of water diverted or withdrawn for each of the five years of continuous beneficial water use, taking into consideration the following types of data:
  - Measurement data
  - Evaluation of existing records
  - Estimation (see PRO – 1210).
- b) Verify that the annual quantity determined as diverted or withdrawn in any year does not exceed the maximum quantity of the authorized water right for the purposes of determining the annual consumptive quantity.
- c) Determine the return flow from each of the five years, then subtract the return flow for each year from the corresponding total annual quantity of water diverted or withdrawn. This represents the consumptive use for each of the five years.
- d) Select the two highest years of consumptive water use and average the two highest years (See PRO-1210). This is the annual consumptive quantity defined in RCW 90.03.380.
- e) Review the proposed project's consumptive use to determine its feasibility within the limits of the determined annual consumptive quantity.
  - Historic use may be used to estimate future use if the manner and extent of that use will remain unchanged. Any changes to a portion of that use should be evaluated for potential effects on the use as a whole. The consumptive portion of elements that are changed may be estimated in accordance with PRO-1210.
  - The estimated annual consumptive use for the new or expanded uses is the sum of existing unchanged uses, existing changed uses, and new or expanded uses. This use cannot exceed the annual consumptive quantity of the existing water right.

5) A decision approving a change must include:

- a) A determination of the extent and validity of the right;
- b) A finding that no other rights will be impaired;
- c) Limitations to ensure that the annual consumptive quantity is not exceeded as a result of the change;
- d) Metering provisions to verify compliance with the terms of the changed right.

  
\_\_\_\_\_  
Ken Slattery  
Program Manager  
Water Resources Program

*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.*