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ELEMENT Comparison, Rationale	Entiat <i>Adopted August 2005 (WAC 173-546)</i>	Stillaguamish <i>Adopted Aug. 2005 (WAC 173-505)</i>	Skagit <i>Adopted May 2006 (WAC 173-503)</i>	Walla Walla <i>Adopted August 2007 (WAC 173-532)</i>
Instream Flows Priority Date of Instream Flow	<p>✓ Section 070(8)</p> <p>The effective date of the chapter - Entiat Planning Unit vote unanimously to change the priority date of the instream flow as part of their watershed plan development.</p>	<p>✓ Section 010(3)</p> <p>The effective date of the chapter Non-2514 Watershed</p>	<p>✓ Section 050</p> <p>The priority date of a given allocation from the reservation is the same as the effective date of rulemaking that established the reservation.</p>	<p>✓ Section 030</p> <p>The effective date of this chapter.</p>
Lakes & Ponds Differences in the rules because of unique characteristics. We need to look at this carefully for each watershed.	<p>✓ Section 060</p> <p>Most, if not all, lakes and ponds are on state or federal land, with no development pressure.</p>	<p>✓ Section 060</p> <p>Closed lakes and ponds, except for single domestic in-house use.</p>	<p>✓ Section 071</p> <p>Future withdrawals that would not be consistent with this requirement shall be denied.</p>	<p>XXXX</p> <p>The rule does not specifically address lakes and ponds, but section 040 does close all surface water for further consumptive uses during times of low surface water flows.</p>
Closures	<p>XXXX</p> <p>No closures because water is available, there is little development pressure, it is not a salmon-critical basin, and closures were not recommended by the Planning Unit.</p>	<p>✓ Section 070</p> <p>Stream closures based on water availability. Both partial, and year round closures with exceptions.</p>	<p>✓ Section 051</p> <p>Rule sets aside limited amount of water for future out-of-stream uses that can be used under certain criteria described in WAC 173-503-073. When and if the full amount of the reserved quantities are allocated, those tributary subbasins identified as subject to closure will be closed without further action of the department, except for the Upper Skagit, Middle Skagit, and Lower Skagit subbasin management units. The department will notify the public of effective stream closures through newspaper publication. Exceptions to the closures and instream flow requirements are provided in WAC 173-503-060, 173-503-073, 173-503-074 and 173-503-075.</p>	<p>✓ Section 040</p> <p>No surface or ground water available for new consumptive uses during periods of low surface water flows. Seasonally closes all rivers and streams from May 1 to November 30, with the exception of certain tributaries to the Walla Walla, which will be closed from June 1 to November 30. Future permits to withdraw water during non-closure periods may only be issued for environmental enhancement projects (EEP). EEP are water storage projects that demonstrate a net environmental benefit, with particular emphasis on enhancing salmonids production (section 055).</p> <p>Gravel aquifer closed, due to a finding of hydraulic continuity with overappropriated surface water. Exceptions to the gravel aquifer closure are found in section 050, which allows for limited future withdrawals for permit-exempt wells. In "high density areas" (based on county zoning), withdrawals are limited to domestic and outdoor use (e.g., lawn & noncommercial garden). In these areas, permit-exempt wells are also limited to a daily withdrawal of 1,250 gpd per residence, or combined withdrawal of 5,000 gpd per project/well. All outdoor use must be mitigated, water-for-water, from May 1 to November 30 (see element on "mitigation" below for more).</p> <p>Outside of the "high density areas," no limitations other than those imposed by RCW 90.44.050, except for stockwater uses. For permit-exempt stockwatering out of the gravel aquifer, withdrawals are regulated according to legal lot size.</p>
Reservations for Specific Uses	<p>✓ Section 070</p> <p>Entiat — The uses for the reservation are</p> <ul style="list-style-type: none"> •Domestic and Stock watering (there is no specific quantity for stock water. It is lumped with domestic.) •Commercial agriculture •Commercial/light industrial 	<p>✓ Section 090</p> <p>Stillaguamish — Single and group domestic and stockwatering.</p>	<p>✓ Section 051</p> <p>Rule sets aside a limited amount of water for future out-of-stream uses in these basins that can be used under certain criteria described in WAC 173-503-073 and WAC 173-503-075. When and if the full amount of the reserved quantities are allocated, those tributary subbasins identified as subject to closure shall thereby be closed without further action of the</p>	<p>XXXX</p> <p>Rule doesn't address (surface water is overappropriated, no water available for future year-round reservation use).</p>

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	<p>Since all uses from the reserve will have the same priority date, the following will guide water supply decisions in times of water shortage:</p> <p>a. Among the three use categories: Domestic and stock-watering uses will be met first, followed by commercial agriculture and finally commercial/light industrial.</p> <p>Within each use category, the date of first beneficial use will be used. The use with the earliest date will be satisfied first.</p>		<p>department, except for the Upper Skagit, Middle Skagit, and Lower Skagit subbasin management units.</p> <p>The department will notify the public of effective stream closures through publication of a notice in a newspaper of general circulation for the region.</p> <p>Exceptions to the closures and instream flow requirements are provided in WAC 173-503-060, 173-503-073, 173-503-074 and 173-503-075.</p>	
<p>Priority Date for uses under the of Reservation</p>	<p>✓ Section 070</p> <p>Effective date of chapter; <i>senior to the instream flows</i></p>	<p>✓ Section 090</p> <p>Priority date of an given appropriation from a reservation is the same as the effective date of this chapter.</p>	<p>✓ Section 050</p> <p>The priority date of a given allocation from the reservation is the same as the effective date of rulemaking that established the reservation.</p>	<p>XXXX</p> <p>Rule doesn't address</p>
<p>Uses of the Reservation</p>	<p>✓ Section 070</p> <p>The uses for the reservation are</p> <ul style="list-style-type: none"> •Domestic and Stock watering (there is no specific quantity for stock water. It is lumped with domestic.) •Commercial agriculture •Commercial/light industrial <p>Since all uses from the reserve will have the same priority date, the following will guide water supply decisions in times of water shortage:</p> <p>b. Among the three use categories: Domestic and stock-watering uses will be met first, followed by commercial agriculture and finally commercial/light industrial.</p> <p>c. Within each use category, the date of first beneficial use will be used. The use with the earliest date will be satisfied first.</p> <p>Specific detailed accounting assumptions and estimates</p> <p>Direct county involvement with Ecology in accounting and administration.</p>	<p>✓ Section 090</p> <p>Single and group domestic</p>	<p>✓ Sections 073 and 075</p> <p>Domestic water use, municipal, commercial/industrial, or stockwatering</p> <p>The Skagit River basin is unique in its hydrology and ecology from other basins in the state. The Skagit River Basin is the largest river draining into Puget Sound, with average flows of approximately 10,000 cubic feet per second (cfs). The river ends in a large delta and estuary, which is very productive farmland. Due to the large stream flows and unique issues in the basin, Ecology was able to take a different approach on many key issues from the other recently adopted rules.</p> <p>The size of the reservation is significantly larger than in other basins.</p> <p>The reservation is available for purposes other than domestic water supply.</p> <p>The rule requires metering of all uses other than single domestic uses. Water used will be accounted for using actual measured data or assumed maximum daily usage of 350 gpd for a single residence or 5,000 gpd for each commercial/industrial use.</p> <p>The rule does not close many critical sub-basins up-front in the rule. Critical tributaries will be closed when the reservations are fully allocated. This is a new direction the agency felt comfortable taking since the local governments in the Skagit basin have expressed commitment to actively implement the instream flow rule.</p>	<p>XXXX</p> <p>Rule doesn't address</p>
<p>Measuring use of Reservation</p>	<p>✓ Section 070 Requires metering of all permitted surface and ground water allocations and public water system providers. If further information is needed by Ecology, then permit exempt ground water sources may also be required to meter and report after consultation</p>	<p>✓ Section 090 (2) (h)</p> <p>Requires metering of more than 2 users. Reserves right to require metering of single domestic.</p>	<p>✓ Section 073</p> <p>Requires metering of all uses, excluding permit-exempt wells. Where there is no meter installed, Ecology will assume a use of 350 gpd for domestic uses and 5,000 gpd for commercial/industrial uses for accounting purposes.</p>	<p>XXXX</p> <p>Rule doesn't address</p>

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	with local entities.			
Limit on Outdoor irrigation	<p>XXXXX</p> <p>Does not limit outdoor watering to less than ½ acre</p>	<p>✓ Section 090</p> <p>Limits outdoor irrigation to 1/12 acre</p>	<p>✓ Section 025</p> <p>For permit-exempt domestic water use of ground water sources, total outdoor watering for multiple residences shall be consistent with the ground water permit exemption provisions in RCW 90.44.050.</p>	<p>✓ Section 050</p> <p>In areas where zoned density is equal to or more dense than one residence per ten acres (high density areas), a permit-exempt withdrawal from the gravel aquifer may not exceed 1,250 gpd per residence, or combined withdrawal of 5,000 gpd per project/well. Outdoor water use restricted to activities such as irrigation of lawns, noncommercial garden, outdoor washing, etc. Total area of irrigation or noncommercial garden not to exceed ½ acre. All outdoor use must be mitigated, water-for-water, from May 1 to November 30 (see element on “mitigation” below for more).</p> <p>For planning and mitigation purposes, maximum outdoor use is estimated to be 1,000 gpd per residence, where limitations above apply.</p> <p>In areas where zoned density is less dense than one residence per ten acres, outdoor irrigation only limited per RCW 90-44-050.</p> <p>Permit-exempt withdrawals from basalt aquifer are only limited per RCW 90-44-050.</p>
Requirement to use municipal water supply if available	<p>XXXXX</p> <p>Rule doesn't address</p>	<p>✓ Section 090 (2) (f)</p> <p>Allows use of reservation only if municipal water is not available. Does not require a user of a permit exempt well to hook up when water becomes available.</p>	<p>✓ Section 073</p> <p>A new withdrawal under this reservation is not allowed in areas where a municipal water system has been established and a connection can be provided in a timely and reasonable manner.</p>	<p>✓ Section 050</p> <p>A new withdrawal is not allowed in areas where a municipal connection is available in a timely and reasonable manner.</p>
Access to reservation by existing municipal water supplier	<p>XXXXX</p> <p>Rule doesn't address</p>	<p>✓ Section 090</p> <p>The ground water reservation can be used by single, small group or business uses that fit within the 5000 gpd limitation, not including municipal water suppliers.</p>	<p>✓ Section 060</p> <p>Before the department can approve a water right application for a new public water supply under subsection (1)(b), (c), or (d) of this section, the applicant must also demonstrate that there are no other municipal or public water systems in the same proposed retail service area with ability to serve.</p>	<p>XXXXX</p> <p>Rule doesn't address</p>
Place of Use of reserved ground water	<p>✓ Section 070 (7)</p> <p>Requires the water to be put to use in the reservation management area from which it is withdrawn. Prohibits transfers between management units. A management unit is defined as any stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular use, action, instream flow level or reserve of water applies.</p>	<p>✓ Section 090</p> <p>The ground water reserve is only for permit exempt uses within certain basins and cannot be moved to a different basin.</p>	<p>XXXXX</p> <p>Rule doesn't address</p>	<p>XXXXX</p> <p>Rule doesn't address</p>

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Accounting for use of reserved water, record keeping, and notification	<p>✓ Section 070(8) For accounting purposes, the department shall use the detailed assumptions and estimates outlined in the Watershed Plan.</p>	<p>✓ Section 090(5)(a) A record of all ground water withdrawals from the reservation shall be maintained by the department. The department will account for water use under the reservation based on the best available information. When other sources of information are not readily available, the department may account for water use at a rate of three hundred fifty gallons per day (gpd) per residence or business. This figure may be adjusted down to one hundred seventy-five gpd if the residence or business is served by an on-site septic system.</p>	<p>✓ Section 073 This reservation shall be administered and accounted for by the department in consultation with local governmental authorities. The department will maintain an estimate of the amount of water used from the reservation based on water rights issued by the department and actual measured water use. All users, other than single residence users, under the reservation shall install and maintain a water source meter, in accordance with specifications provided by the department. The water user must provide a reasonable right of inspection, allow the meter to be read, and report the data to the department or a designated local entity. Single domestic water usage will be accounted for by means of an assumed maximum daily water use figure of 350 gpd.</p>	<p>XXXXX Rule doesn't address</p>
Applicability of Reservation	<p>✓ Section 070 Detailed instructions on applicability of the reservation, based on Watershed Plan.</p>	<p>✓ Section 090 Reservations applicable only when the appropriate city(ies) or counties submit written acknowledgement to the department that confirms that any legally required determinations of adequate potable water for building permits and subdivision approvals will be consistent with applicable provisions of this chapter. Once this chapter is adopted and written acknowledgement is received, the department will promptly notify those city(ies) or counties, the Tribes, water well contractors and the public that the reserves are in effect in those jurisdictions where acknowledgements exist.</p>	<p>✓ Section 150 Reservations applicable for all water uses commenced after the effective date of the rule amendment. Water users with a priority date that predates the rule amendment, but that are junior to the priority date of the instream flow can opt into the reservations by agreeing to change their priority date to that of the reservations. Water users in the latter category are assumed to have opted into the reservation, unless they notify Ecology otherwise in writing.</p>	<p>XXXXX Rule doesn't address</p>
Designated Groundwater areas and withdrawal limits	<p>XXXXX Rule doesn't address</p>	<p>✓ Section 090 Ground water reservation is 5.0 cfs spread over three basins (mainstem, North Fork and South Fork) and specific volumes are allocated to each sub-basin.</p>	<p>XXXXX Rule doesn't address</p>	<p>✓ Sections 040, 045, and 050 Shallow gravel aquifer closed, due to a finding of hydraulic continuity with closed surface water. Exceptions to the gravel aquifer closure are found in section 050, which allows for limited future withdrawals for permit-exempt wells. In "high density areas" (based on county zoning), withdrawals are limited to domestic and outdoor use (e.g., lawn & noncommercial garden). In these areas, permit-exempt wells are also limited to a daily withdrawal of 1,250 gpd per residence, or combined withdrawal of 5,000 gpd per project/well. All outdoor use must be mitigated, water-for-water, from May 1 to November 30 (see element on "mitigation" below for more). Water from deep basalt ground water aquifer only available when the use will not (1) impair existing water rights, (2) affect any closed surface source where instream flows have</p>

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				not been established, (3) affect any closed gravel aquifer.
Surface Water Allocation Limits Maximum Future Allocations	<p>✓ Section 080</p> <p>100 cfs is available from May 1 - June 30. Of that 100 cfs, 25 cfs may be allocated from the Mad River. For the period of July 1-15, the maximum allocation is 67 cfs from the mainstem Entiat only. For the period of April 16-30, the maximum allocation is 25 cfs from the Mad River only.</p>	<p>✓ Section 100</p> <p>Allocation not to exceed 300 cfs during open periods on the Stillaguamish river. Other rivers and tributaries have different allocation limits and opening times.</p>	<p>✓ Section 050</p> <p>200 cfs available for surface and ground water appropriation subject to existing rights, exemptions in WAC 173-503-070, and instream flows set forth in WAC 173-503-040.</p>	<p>✓ Section 040 and 055</p> <p>Future permits to withdraw water during non-closure periods are limited to environmental enhancement projects (EEP). EEP are water storage projects that demonstrate a net environmental benefit, with particular emphasis on enhancing salmonids production (section 055). In order for a surface water withdrawal for an EEP to be approved, it must:</p> <ol style="list-style-type: none"> (1) Receive a <i>consensus</i> recommendation from the Umatilla Tribe, Planning Unit, state Dept. of Fish & Wildlife, and Planning Unit initiating governments, (2) Receive technical advice from the technical advisory group, (3) Be issued on a temporary basis, and only if it doesn't affect fish migration, ecological functions (high flows are beneficial for the stream ecology) and existing water rights, including instream flows, and (4) Satisfy other conditions. <p>There is also a maximum allocation set for future EEP withdrawals. Allocation limitations are set on all four of the major stream systems in the basin (Mill Creek, Walla Walla River, North Fork Touchet River, and Touchet River).</p>
Alternative sources of Water	<p>✓ Section 100</p> <p>Includes multipurpose storage facilities, conservation and efficiency measures applied to existing uses and the transfer of saved water, and acquisition, leasing, establishment of a trust water rights program including water banking.</p>	<p>✓ Section 120</p> <p>Includes reuse of reclaimed water, artificial recharge and recovery, multipurpose water storage facilities, conservation and efficiency measures applied to existing uses and the transfer of saved water, acquisition of existing water rights, and establishment of a trust water rights program.</p>	<p>✓ Section 100</p> <p>Sources include but are not limited to: Reuse of reclaimed water; Artificial recharge and recovery; Multipurpose water storage facilities; Conservation and efficiency measures applied to existing uses and the transfer of saved water; Acquisition of existing water rights; and Establishment of a trust water rights program.</p>	<p>XXXX</p> <p>Rule doesn't address</p>
Establishment of trust water rights program	<p>XXXX</p> <p>Rule doesn't address</p>	<p>✓ Section 130</p> <p>The determination of how much water should be allocated to future out of stream uses and conservation needs will be made at the time the water is acquired and deposited into the trust water rights program.</p>	<p>✓ Section 110</p> <p>The determination of how much water should be allocated to future out of stream uses and conservation needs will be made at the time the water is acquired and deposited into the trust water rights program.</p>	<p>XXXX</p> <p>Rule doesn't address</p>

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Water Banking	<p>✓ Section 100</p> <p>Alternative sources of water incorporates establishment of a trust water rights program including water banking.</p>	<p>XXXX</p> <p>Rule doesn't address</p>	<p>XXXX</p> <p>Rule doesn't address</p>	<p>✓ Section 050</p> <p>No express terms on banking, but Ecology and others are assisting future permit-exempt users by developing a group mitigation program (see element on "mitigation" below).</p> <p>The department shall keep annual records of all future permit-exempt ground water withdrawals from the gravel and basalt aquifers.</p>
Mitigation	<p>✓ Section 090</p> <p>Water rights shall be issued for ground water withdrawals not subject to the reservation if Ecology determines that proposed mitigation in place, would not interfere with or impair the instream flows or maximum water allocation.</p>	<p>✓ Section 110</p> <p>A mitigation plan is necessary for future permits not subject to the instream flow. A mitigation plan must be voluntary, scientifically sound, and approved by Ecology. Water from plans proven to be ineffective will be a part of instream flows, or use must cease of the stream is closed.</p>	<p>✓ Sections 060 and 073</p> <p>With a mitigation plan in place, future withdrawals could occur not subject to instream flows. A mitigation plan must be approved by Ecology, be scientifically sound, not interfere with senior water rights including instream flow rights, adversely impact instream resources, or diminish water quality. Water from plans proven to be ineffective will be a part of instream flows, or use must cease of the stream is closed.</p>	<p>✓ Section 050</p> <p>Future permit-exempt users in "high density areas" are required to mitigate for outdoor withdrawals from gravel aquifer. Water users must mitigate all outdoor use from May 1 to November 30. Mitigation must be secured by May 1, 2008.</p> <p>Mitigation may be done individually or through state-assisted program. State-assisted program establishes a group mitigation opportunity where individuals can satisfy mitigation requirement through payment of one time fee to Washington Water Trust (WWT). WWT will be facilitating mitigation exchange and acquisition of water to meet future growth demands. Once mitigation program is under way, administration will be passed on to a local entity. For more information see "Mitigation Guide," available at http://www.ecy.wa.gov/pubs/0711032.pdf.</p>
Future Changes and Transfers	<p>✓ Section 110</p> <p>Any change or transfer proposals can be approved only if there is a finding that existing rights, including the instream flow right, will not be injured or impaired.</p>	<p>✓ Section 140</p> <p>Any change or transfer proposals can be approved only if there is a finding that existing rights, including the instream flow right, will not be injured or impaired.</p>	<p>✓ Section 081</p> <p>Any change or transfer proposals can be approved only if there is a finding that existing rights, including the instream flow right, will not be injured or impaired.</p>	<p>XXXX</p> <p>Rule doesn't address</p>
Compliance & Enforcement	<p>✓ Section 120</p> <p>After distribution of education materials, first seek to obtain voluntary compliance through technical assistance, and then impose sanctions in accordance with statute.</p>	<p>✓ Section 150</p> <p>After distribution of education materials, first seek to obtain voluntary compliance through technical assistance, and then issue a notice of violation, a formal administrative order, or assess statutory penalties.</p>	<p>✓ Section 090</p> <p>Ecology will first attempt to seek voluntary compliance, except in egregious cases. If compliance is not obtained Ecology will issue a notice of violation, a formal administrative order, or assess statutory penalties.</p>	<p>✓ Section 090</p> <p>After distribution of education materials, first seek to obtain voluntary compliance through technical assistance, and then issue a notice of violation, a formal administrative order, or assess statutory penalties.</p>
Appeals	<p>✓ Section 130</p> <p>Final written decisions by Ecology can be appealed to the PCHB.</p>	<p>✓ Section 160</p> <p>Final written decisions by Ecology can be appealed to the PCHB.</p>	<p>✓ Section 130</p> <p>Final written decisions by Ecology can be appealed to the PCHB.</p>	<p>✓ Section 100</p> <p>Final written decisions by Ecology can be appealed to the PCHB.</p>
Regulation review	<p>✓ Section 140</p> <p>Default language stating that when new information comes available or a significant change in conditions occurs, the chapter will be</p>	<p>✓ Section 170</p> <p>Uses default Language</p>	<p>✓ Section 140</p> <p>Uses default language although removes language requiring that new information or change in conditions be significant.</p>	<p>✓ Section 010</p> <p>Found in the Purpose section of the rule. States that Ecology shall initiate review whenever new information, changing conditions, or statutory modifications make it</p>

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	reviewed by Ecology in consultation with local entities. The rule further statues that the reservation will be reviewed every five years.			necessary to consider revisions.
Maps	✓ Section 150	✓ Section 180	✓ Section 120	✓ Section 120