



1 following the department's receipt of the request for a preapplication  
2 meeting.

3 (2)(a) The purpose of the preapplication meeting is to conduct a  
4 preliminary discussion of the application prior to submission to the  
5 department.

6 (b) The department shall provide the following information to the  
7 applicant at the preapplication meeting:

8 (i) Requirements for application completeness;

9 (ii) Available review processes, including options for expedited  
10 review through cost reimbursement and coordinated cost reimbursement  
11 under RCW 90.03.265, review by the department under RCW 90.03.290,  
12 90.03.380, 90.03.383, 90.03.390, 90.03.397, or 90.44.100, including  
13 opportunities for the applicant to submit technical reports, other  
14 information, or a draft report of examination for review by the  
15 department;

16 (iii) A schedule of all applicable fees;

17 (iv) The estimated time schedule for processing;

18 (v) Water availability, to the extent this information is known at  
19 the time of the preapplication meeting;

20 (vi) Approaches used by other applicants whose permits have been  
21 processed recently for the same or similar source of water; and

22 (vii) Any other information known at the time of the preapplication  
23 meeting that is relevant and material to the department's review of the  
24 proposed application.

25 (3) At the applicant's request, the department shall also invite  
26 representatives of other agencies to attend the preapplication meeting.

27 (4) Within fourteen days of the preapplication meeting, the  
28 department shall provide a written summary of the discussion at the  
29 meeting to the applicant.

30 NEW SECTION. **Sec. 102.** A new section is added to chapter 90.03  
31 RCW to read as follows:

32 (1)(a) Any applicant for a new appropriation or a change, transfer,  
33 or amendment of a water right may request a preprocessing meeting with  
34 the department. The preprocessing meeting must be requested on a form  
35 supplied by the department, accompanied by a fee of one hundred  
36 dollars. If the preprocessing meeting is held with two or more

1 applicants whose applications are from the same source or supply or  
2 within the basin where the department is planning to begin processing,  
3 there is no fee for the preprocessing meeting.

4 (b) The preprocessing meeting must be held within thirty days  
5 following the department's receipt of the request for a preprocessing  
6 meeting.

7 (2)(a) The purpose of the preprocessing meeting is to conduct a  
8 preliminary discussion of the application prior to the processing of  
9 the application by the department.

10 (b) The department shall provide the following information to the  
11 applicant at the preprocessing meeting:

12 (i) Any additional information the applicant must provide to meet  
13 the requirements of RCW 90.03.260;

14 (ii) Available review processes, including options for expedited  
15 review through cost reimbursement and coordinated cost reimbursement  
16 under RCW 90.03.265, review by the department under RCW 90.03.290,  
17 90.03.380, 90.03.383, 90.03.390, 90.03.397, or 90.44.100, including  
18 opportunities for the applicant to submit technical reports, other  
19 information, or a draft report of examination for review by the  
20 department;

21 (iii) A schedule of all applicable fees;

22 (iv) The estimated time schedule for processing;

23 (v) Water availability and any other information available to the  
24 department on the hydrology of the basin and the status of current  
25 water rights in the basin, to the extent this information is known at  
26 the time of the preprocessing meeting;

27 (vi) Approaches used by other applicants whose permits have been  
28 processed recently for the same or similar source of water; and

29 (vii) Any other information known to the department at the time of  
30 the preprocessing meeting that is relevant and material to the  
31 department's review of the proposed application.

32 (3) Within thirty days of the preprocessing meeting, the department  
33 shall provide a written summary of the discussion at the meeting to the  
34 applicant.

35 (4) The department shall send a notice to all applicants at least  
36 ninety days prior to beginning processing water right applications in  
37 a water source or basin advising them of their rights to a  
38 preprocessing meeting.

1 (5) In water sources or basins where the department is not planning  
2 on processing water right applications, an applicant may request a  
3 preprocessing meeting at any time and must be granted a meeting within  
4 sixty days of the request. The summary of the meeting must be sent  
5 within thirty days of the preprocessing meeting.

6 **Sec. 103.** RCW 90.03.290 and 2001 c 239 s 1 are each amended to  
7 read as follows:

8 (1) When an application complying with the provisions of this  
9 chapter and with the rules of the department has been filed, the same  
10 (~~shall~~) must be placed on record with the department(~~(, and it shall~~  
11 ~~be its duty to investigate the application, and determine what water,~~  
12 ~~if any, is available for appropriation, and find and determine to what~~  
13 ~~beneficial use or uses it can be applied. If it is proposed to~~  
14 ~~appropriate water for irrigation purposes, the department shall~~  
15 ~~investigate, determine and find what lands are capable of irrigation by~~  
16 ~~means of water found available for appropriation. If it is proposed to~~  
17 ~~appropriate water for the purpose of power development, the department~~  
18 ~~shall investigate, determine and find whether the proposed development~~  
19 ~~is likely to prove detrimental to the public interest, having in mind~~  
20 ~~the highest feasible use of the waters belonging to the public)).~~

21 (2)(a) If the application does not contain, and the applicant does  
22 not promptly furnish sufficient information on which to base (~~such~~)  
23 the findings required under subsection (3) of this section, the  
24 department may issue a preliminary permit, for a period of not to  
25 exceed three years, requiring the applicant to make such surveys,  
26 investigations, studies, and progress reports, as in the opinion of the  
27 department may be necessary. If the applicant fails to comply with the  
28 conditions of the preliminary permit, it and the application or  
29 applications on which it is based shall be automatically canceled and  
30 the applicant so notified. If the holder of a preliminary permit  
31 shall, before its expiration, file with the department a verified  
32 report of expenditures made and work done under the preliminary permit,  
33 which, in the opinion of the department, establishes the good faith,  
34 intent, and ability of the applicant to carry on the proposed  
35 development, the preliminary permit may(~~(, with the approval of the~~  
36 ~~governor,)) be extended, but not to exceed a maximum period of five~~  
37 years from the date of the issuance of the preliminary permit.

1 (b) For any application for which a preliminary permit was issued  
2 and for which the availability of water was directly affected by a  
3 moratorium on further diversions from the Columbia river during the  
4 years from 1990 to 1998, the preliminary permit is extended through  
5 June 30, 2002. If such an application and preliminary permit were  
6 canceled during the moratorium, the application and preliminary permit  
7 shall be reinstated until June 30, 2002, if the application and permit:  
8 (i) Are for providing regional water supplies in more than one urban  
9 growth area designated under chapter 36.70A RCW and in one or more  
10 areas near such urban growth areas, or the application and permit are  
11 modified for providing such supplies, and (ii) provide or are modified  
12 to provide such regional supplies through the use of existing intake or  
13 diversion structures. The authority to modify such a canceled  
14 application and permit to accomplish the objectives of (b)(i) and (ii)  
15 of this subsection is hereby granted.

16 (3) The department shall investigate all facts relevant and  
17 material to the application. The department shall make and file as  
18 part of the record in the matter, written findings of fact concerning  
19 all things investigated, and if it shall find that there is water  
20 available for appropriation for a beneficial use, and the appropriation  
21 thereof as proposed in the application will not impair existing rights  
22 or be detrimental to the public welfare, it shall issue a ~~((permit))~~  
23 draft report of examination stating the amount of water to which the  
24 applicant shall be entitled and the beneficial use or uses to which it  
25 may be applied: PROVIDED, That where the water applied for is to be  
26 used for irrigation purposes, it shall become appurtenant only to such  
27 land as may be reclaimed thereby to the full extent of the soil for  
28 agricultural purposes. But where there is no unappropriated water in  
29 the proposed source of supply, or where the proposed use conflicts with  
30 existing rights, or threatens to prove detrimental to the public  
31 interest, having due regard to the highest feasible development of the  
32 use of the waters belonging to the public, it shall be duty of the  
33 department to ~~((reject such))~~ deny the application ~~((and to refuse to~~  
34 ~~issue the permit asked for))~~.

35 (4) The department shall post on its web site each draft report of  
36 examination for a period of thirty days. The department's web site  
37 must include information on how to submit a protest on a draft report  
38 of examination during the thirty-day protest period.

1       (5)(a) Except for the applicant, any person may file a protest with  
2 the department within the thirty-day protest period, accompanied by the  
3 fee specified in RCW 90.03.470 and the supplementary protest fee  
4 required under section 301 of this act. The department shall promptly  
5 transmit to the applicant copies of any protests received on the draft  
6 report of examination. The applicant may submit additional information  
7 to the department in response to the draft report of examination at any  
8 time.

9       (b) The department shall consider any protests received and any  
10 additional information from the applicant and issue a final report of  
11 examination within thirty days following the end of the thirty-day  
12 protest period.

13       (c) The department shall post each final report of examination on  
14 its web site for a period of thirty days.

15       (6) At the option of the applicant, the applicant may submit to the  
16 department a draft report of examination or other technical report  
17 prepared by a licensed hydrogeologist, a licensed engineer, a  
18 hydrologist, a certified water rights examiner, or an attorney licensed  
19 to practice law in the state of Washington. The department shall  
20 review and consider any report provided by the applicant, and has full  
21 authority to adopt, amend, or reject any report in conjunction with the  
22 issuance of the department's draft report of examination.

23       (7) If the ((permit is refused)) application is denied because of  
24 conflict with existing rights and such applicant shall acquire same by  
25 purchase or condemnation under RCW 90.03.040, the department may  
26 thereupon grant such permit.

27       (8) Any application may be approved for a ((less)) lesser amount of  
28 water than that applied for, if there exists substantial reason  
29 therefor, and in any event shall not be approved for more water than  
30 can be applied to beneficial use for the purposes named in the  
31 application. ((In determining whether or not a permit shall issue upon  
32 any application, it shall be the duty of the department to investigate  
33 all facts relevant and material to the application.))

34       (9) After the department approves ((said)) the application in whole  
35 or in part and before any permit shall be issued thereon to the  
36 applicant, such applicant shall pay the fee provided in RCW 90.03.470:  
37 PROVIDED FURTHER, That in the event a permit is issued by the

1 department upon any application, it shall be its duty to notify the  
2 director of fish and wildlife of such issuance.

3 **PART 2**

4 **REVIEW OF WATER RIGHTS AND RELINQUISHMENT**

5 **Sec. 201.** RCW 90.14.130 and 1987 c 109 s 13 are each amended to  
6 read as follows:

7 (1) When it appears to the department of ecology that a person  
8 entitled to the use of water has not beneficially used his water right  
9 or some portion thereof, and it appears that said right has or may have  
10 reverted to the state because of such nonuse, as provided by RCW  
11 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall  
12 notify such person by order: PROVIDED, That where a company,  
13 association, district, or the United States has filed a blanket claim  
14 under the provisions of RCW 90.14.060 for the total benefits of those  
15 served by it, the notice shall be served on such company, association,  
16 district or the United States and not upon any of its individual water  
17 users who may not have used the water or some portion thereof which  
18 they were entitled to use. The order shall contain: ~~((+1))~~ (a) A  
19 description of the water right, including the approximate location of  
20 the point of diversion, the general description of the lands or places  
21 where such waters were used, the water source, the amount involved, the  
22 purpose of use, and the apparent authority upon which the right is  
23 based; ~~((+2))~~ (b) a statement that unless sufficient cause be shown on  
24 appeal the water right will be declared relinquished; and ~~((+3))~~ (c)  
25 a statement that such order may be appealed to the pollution control  
26 hearings board. Any person aggrieved by such an order may appeal it to  
27 the pollution control hearings board pursuant to RCW 43.21B.310. The  
28 order shall be served by registered or certified mail to the last known  
29 address of the person and be posted at the point of division or  
30 withdrawal. The order by itself shall not alter the recipient's right  
31 to use water, if any.

32 (2) Notwithstanding any other provisions of this chapter, there is  
33 no relinquishment of any water right if the end of the alleged period  
34 of nonuse of the right occurred more than fifteen years before the date  
35 upon which an order is issued under this section.

1       **Sec. 202.** RCW 90.14.140 and 2009 c 183 s 14 are each amended to  
2 read as follows:

3       (1) For the purposes of RCW 90.14.130 through 90.14.180, the  
4 following constitute "sufficient cause" (~~(shall be defined as)~~) for the  
5 nonuse of all or a portion of the water by the owner of a water right  
6 for a period of five or more consecutive years where such nonuse occurs  
7 as a result of:

8       (a) Drought, or other unavailability of water;

9       (b) Active service in the armed forces of the United States during  
10 military crisis;

11       (c) Nonvoluntary service in the armed forces of the United States;

12       (d) The operation of legal proceedings;

13       (e) Federal or state agency leases of or options to purchase lands  
14 or water rights which preclude or reduce the use of the right by the  
15 owner of the water right;

16       (f) Federal laws imposing land or water use restrictions either  
17 directly or through the voluntary enrollment of a landowner in a  
18 federal program implementing those laws, or acreage limitations, or  
19 production quotas;

20       (g) Temporarily reduced water need for irrigation use where such  
21 reduction is due to varying weather conditions, including but not  
22 limited to precipitation and temperature, that warranted the reduction  
23 in water use, so long as the water user's diversion and delivery  
24 facilities are maintained in good operating condition consistent with  
25 beneficial use of the full amount of the water right;

26       (h) Temporarily reduced diversions or withdrawals of irrigation  
27 water directly resulting from the provisions of a contract or similar  
28 agreement in which a supplier of electricity buys back electricity from  
29 the water right holder and the electricity is needed for the diversion  
30 or withdrawal or for the use of the water diverted or withdrawn for  
31 irrigation purposes;

32       (i) Water conservation measures implemented under the Yakima river  
33 basin water enhancement project, so long as the conserved water is  
34 reallocated in accordance with the provisions of P.L. 103-434;

35       (j) Reliance by an irrigation water user on the transitory presence  
36 of return flows in lieu of diversion or withdrawal of water from the  
37 primary source of supply, if such return flows are measured or reliably



1 estimated using a scientific methodology generally accepted as reliable  
2 within the scientific community; or

3 (k) The reduced use of irrigation water resulting from crop  
4 rotation. For purposes of this subsection, crop rotation means the  
5 temporary change in the type of crops grown resulting from the exercise  
6 of generally recognized sound farming practices. Unused water  
7 resulting from crop rotation will not be relinquished if the remaining  
8 portion of the water continues to be beneficially used.

9 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
10 90.14.180, there shall be no relinquishment of any water right:

11 (a) If such right is claimed for power development purposes under  
12 chapter 90.16 RCW and annual license fees are paid in accordance with  
13 chapter 90.16 RCW;

14 (b) If such right is used for a standby or reserve water supply to  
15 be used in time of drought or other low flow period so long as  
16 withdrawal or diversion facilities are maintained in good operating  
17 condition for the use of such reserve or standby water supply;

18 (c) If such right is claimed for a determined future development to  
19 take place either within fifteen years of July 1, 1967, or the most  
20 recent beneficial use of the water right, whichever date is later;

21 (d) If such right is claimed for municipal water supply purposes  
22 under chapter 90.03 RCW;

23 (e) If such waters are not subject to appropriation under the  
24 applicable provisions of RCW 90.40.030;

25 (f) If such right or portion of the right is leased to another  
26 person for use on land other than the land to which the right is  
27 appurtenant as long as the lessee makes beneficial use of the right in  
28 accordance with this chapter and a transfer or change of the right has  
29 been approved by the department in accordance with RCW 90.03.380,  
30 90.03.383, 90.03.390, or 90.44.100;

31 (g) If such a right or portion of the right is authorized for a  
32 purpose that is satisfied by the use of agricultural industrial process  
33 water as authorized under RCW 90.46.150;

34 (h) If such right is a trust water right under chapter 90.38 or  
35 90.42 RCW;

36 (i) If such a right is involved in an approved local water plan  
37 created under RCW 90.92.090, provided the right is subject to an

1 agreement not to divert under RCW 90.92.050, or provided the right is  
2 banked under RCW 90.92.070; or

3 (j) If the end of the period of nonuse of such a right occurred  
4 more than fifteen years before the date upon which an order is issued  
5 under RCW 90.14.130, the date of filing of the department's report of  
6 findings under RCW 90.03.640, or the date of a final decision by the  
7 department or a water conservancy board on an application for change or  
8 transfer of a water right under RCW 90.03.380 or 90.44.100.

9 (3) In adding provisions to this section by chapter 237, Laws of  
10 2001, the legislature does not intend to imply legislative approval or  
11 disapproval of any existing administrative policy regarding, or any  
12 existing administrative or judicial interpretation of, the provisions  
13 of this section not expressly added or revised.

14 **Sec. 203.** RCW 90.14.140 and 2001 c 240 s 1, 2001 c 237 s 27, and  
15 2001 c 69 s 5 are each reenacted and amended to read as follows:

16 (1) For the purposes of RCW 90.14.130 through 90.14.180, the  
17 following constitute "sufficient cause" (~~(shall be defined as)~~) for the  
18 nonuse of all or a portion of the water by the owner of a water right  
19 for a period of five or more consecutive years where such nonuse occurs  
20 as a result of:

- 21 (a) Drought, or other unavailability of water;
- 22 (b) Active service in the armed forces of the United States during  
23 military crisis;
- 24 (c) Nonvoluntary service in the armed forces of the United States;
- 25 (d) The operation of legal proceedings;
- 26 (e) Federal or state agency leases of or options to purchase lands  
27 or water rights which preclude or reduce the use of the right by the  
28 owner of the water right;
- 29 (f) Federal laws imposing land or water use restrictions either  
30 directly or through the voluntary enrollment of a landowner in a  
31 federal program implementing those laws, or acreage limitations, or  
32 production quotas;
- 33 (g) Temporarily reduced water need for irrigation use where such  
34 reduction is due to varying weather conditions, including but not  
35 limited to precipitation and temperature, that warranted the reduction  
36 in water use, so long as the water user's diversion and delivery

1 facilities are maintained in good operating condition consistent with  
2 beneficial use of the full amount of the water right;

3 (h) Temporarily reduced diversions or withdrawals of irrigation  
4 water directly resulting from the provisions of a contract or similar  
5 agreement in which a supplier of electricity buys back electricity from  
6 the water right holder and the electricity is needed for the diversion  
7 or withdrawal or for the use of the water diverted or withdrawn for  
8 irrigation purposes;

9 (i) Water conservation measures implemented under the Yakima river  
10 basin water enhancement project, so long as the conserved water is  
11 reallocated in accordance with the provisions of P.L. 103-434;

12 (j) Reliance by an irrigation water user on the transitory presence  
13 of return flows in lieu of diversion or withdrawal of water from the  
14 primary source of supply, if such return flows are measured or reliably  
15 estimated using a scientific methodology generally accepted as reliable  
16 within the scientific community; or

17 (k) The reduced use of irrigation water resulting from crop  
18 rotation. For purposes of this subsection, crop rotation means the  
19 temporary change in the type of crops grown resulting from the exercise  
20 of generally recognized sound farming practices. Unused water  
21 resulting from crop rotation will not be relinquished if the remaining  
22 portion of the water continues to be beneficially used.

23 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
24 90.14.180, there shall be no relinquishment of any water right:

25 (a) If such right is claimed for power development purposes under  
26 chapter 90.16 RCW and annual license fees are paid in accordance with  
27 chapter 90.16 RCW;

28 (b) If such right is used for a standby or reserve water supply to  
29 be used in time of drought or other low flow period so long as  
30 withdrawal or diversion facilities are maintained in good operating  
31 condition for the use of such reserve or standby water supply;

32 (c) If such right is claimed for a determined future development to  
33 take place either within fifteen years of July 1, 1967, or the most  
34 recent beneficial use of the water right, whichever date is later;

35 (d) If such right is claimed for municipal water supply purposes  
36 under chapter 90.03 RCW;

37 (e) If such waters are not subject to appropriation under the  
38 applicable provisions of RCW 90.40.030;

1 (f) If such right or portion of the right is leased to another  
2 person for use on land other than the land to which the right is  
3 appurtenant as long as the lessee makes beneficial use of the right in  
4 accordance with this chapter and a transfer or change of the right has  
5 been approved by the department in accordance with RCW 90.03.380,  
6 90.03.383, 90.03.390, or 90.44.100;

7 (g) If such a right or portion of the right is authorized for a  
8 purpose that is satisfied by the use of agricultural industrial process  
9 water as authorized under RCW 90.46.150; (~~or~~)

10 (h) If such right is a trust water right under chapter 90.38 or  
11 90.42 RCW; or

12 (i) If the end of the period of nonuse of such a right occurred  
13 more than fifteen years before the date upon which an order is issued  
14 under RCW 90.14.130, the date of filing of the department's report of  
15 findings under RCW 90.03.640, or the date of a final decision by the  
16 department or a water conservancy board on an application for change or  
17 transfer of a water right under RCW 90.03.380 or 90.44.100.

18 (3) In adding provisions to this section by chapter 237, Laws of  
19 2001, the legislature does not intend to imply legislative approval or  
20 disapproval of any existing administrative policy regarding, or any  
21 existing administrative or judicial interpretation of, the provisions  
22 of this section not expressly added or revised.

23 **Sec. 204.** RCW 90.14.200 and 1989 c 175 s 180 are each amended to  
24 read as follows:

25 (1) All matters relating to the implementation and enforcement of  
26 this chapter by the department of ecology shall be carried out in  
27 accordance with chapter 34.05 RCW, the Administrative Procedure Act,  
28 except where the provisions of this chapter expressly conflict with  
29 chapter 34.05 RCW. Proceedings held pursuant to RCW 90.14.130 are  
30 adjudicative proceedings within the meaning of chapter 34.05 RCW.  
31 Final decisions of the department of ecology in these proceedings are  
32 subject to review in accordance with chapter 43.21B RCW.

33 (2)(a) RCW 90.14.130 provides nonexclusive procedures for  
34 determining a relinquishment of water rights under RCW 90.14.160,  
35 90.14.170, and 90.14.180. RCW 90.14.160, 90.14.170, and 90.14.180 may  
36 be applied in, among other proceedings, general adjudication  
37 proceedings initiated under RCW 90.03.110 or 90.44.220(~~or PROVIDED,~~

1 ~~That~~). However, there is no relinquishment of any water right if the  
2 end of the alleged period of nonuse of the right occurred more than  
3 fifteen years before: (i) The date of filing of the department of  
4 ecology's report of finding under RCW 90.03.640; or (ii) the date of a  
5 final decision by the department of ecology or a water conservancy  
6 board on an application for a change or transfer of a water right under  
7 RCW 90.03.380 or 90.44.100.

8 (b) Nothing ((herein shall apply)) in this subsection applies to  
9 litigation involving determinations of the department of ecology under  
10 RCW 90.03.290 relating to the impairment of existing rights.

11 NEW SECTION. Sec. 205. A new section is added to chapter 90.03  
12 RCW to read as follows:

13 (1) Nothing in sections 201 through 204 of this act may be  
14 construed to affect or modify the doctrine of common law abandonment.

15 (2)(a) Except as provided in (b) of this subsection, sections 201  
16 through 204 of this act apply to water rights subject to a general  
17 adjudication that is pending as of the effective date of this section  
18 if the superior court conducting the adjudication issues a conditional  
19 final order relating to the water right.

20 (b) If a superior court determines that a conditional final order  
21 issued by the court in a general adjudication must be modified for the  
22 purposes of issuing the final decree, the superior court may not apply  
23 sections 201 through 204 of this act to the water rights when modifying  
24 the conditional final order for the purposes of issuing the final  
25 decree.

26 (3)(a) Sections 201 through 204 of this act do not apply to: (i)  
27 Relinquishment orders under RCW 90.14.130 entered prior to the  
28 effective date of this section; or (ii) final decisions made by the  
29 department on applications for changes, transfers, or amendments to  
30 water rights under RCW 90.03.380 or 90.44.100, if the decision is made  
31 prior to the effective date of this section.

32 (b) Sections 201 through 204 of this act do not apply to orders of  
33 the pollution control hearings board entered prior to the effective  
34 date of this section on appeals of: (i) Relinquishment orders issued  
35 under RCW 90.14.130; or (ii) decisions on applications for changes,  
36 transfers, or amendments to water rights under RCW 90.03.380 or  
37 90.44.100.

1 **PART 3**

2 **ASSESSMENT AND COLLECTION OF FEES**

3 NEW SECTION. **Sec. 301.** A new section is added to chapter 90.03  
4 RCW to read as follows:

5 (1) Notwithstanding any other provision of law, a person other than  
6 the permit applicant who wishes to protest a decision of the department  
7 must pay a protest fee of five hundred dollars in addition to the  
8 appropriate fee required under RCW 90.03.470(11).

9 (2) Except for the applicant, for any party who appeals a decision  
10 made by the department by filing an appeal with the pollution control  
11 hearings board under chapter 43.21B RCW, a fee of one thousand dollars  
12 is required.

13 (3) All fees collected under this section must be paid to the  
14 department and deposited into the water rights processing account under  
15 RCW 90.03.650.

16 **Sec. 302.** RCW 90.03.650 and 2010 c 285 s 4 are each amended to  
17 read as follows:

18 The water rights processing account is created in the state  
19 treasury. All receipts from the fees collected under RCW 90.03.655,  
20 90.03.665, (~~and~~) 90.44.540, and sections 101, 102, and 301 of this  
21 act, must be deposited into the account. Money in the account may be  
22 spent only after appropriation. Expenditures from the account may only  
23 be used to support the processing of water right applications for a new  
24 appropriation, change, transfer, or amendment of a water right or claim  
25 as provided in this chapter and chapters 90.42 and 90.44 RCW or for the  
26 examination, certification, and renewal of certification of water right  
27 examiners as provided in RCW 90.03.665.

28 **PART 4**

29 **TRUST WATER RIGHTS PROGRAM**

30 NEW SECTION. **Sec. 401.** A new section is added to chapter 90.42  
31 RCW to read as follows:

32 (1) Upon permanently acquiring a water right under a permit,  
33 certificate, or claim in the trust water rights program for instream  
34 flow purposes, the department may file suit in superior court to  
35 protect its water right from impairment. In such an action by the

1 department, the court may join only those parties holding water rights  
2 with priority dates junior in time to the trust water right whose  
3 diversion or withdrawal of water is alleged by the department to be  
4 impairing the trust water right. Prior to filing such an action, the  
5 department shall comply with the procedures of RCW 90.03.605.

6 (2)(a) If the court concludes that any permit, certificate, or  
7 claim is causing impairment of the department's trust water right, the  
8 court shall issue an order enabling the department to regulate the  
9 permits, certificates, or claims to prevent impairment of the trust  
10 water right.

11 (b) After the court has issued an order under (a) of this  
12 subsection, and after all appeals have been exhausted, the department  
13 may issue a notice and order, consistent with its authority under RCW  
14 43.27A.190, to protect a permanent instream flow trust water right from  
15 impairment. The department may serve a notice and order claiming  
16 impairment upon the holder of a permit, certificate, or claim that is  
17 subject to the court's order.

18 (c) Any water right holder may appeal the notice and order issued  
19 by the department under (b) of this subsection to the pollution control  
20 hearings board under chapter 43.21B RCW.

## 21 PART 5

### 22 PROGRAM EFFICIENCIES AND ACCOUNTABILITY

23 NEW SECTION. **Sec. 501.** A new section is added to chapter 90.03  
24 RCW to read as follows:

25 (1)(a) Except as provided in subsection (3) of this section, the  
26 department shall process all water right applications pending as of the  
27 effective date of this section by July 1, 2021.

28 (b) As used in this subsection, water right applications include:  
29 (i) Applications for new appropriation; (ii) transfers, changes, or  
30 amendments to existing permits, water right or storage certificates, or  
31 claimed rights; and (iii) applications for water use mitigation credits  
32 issued as a result of water banking.

33 (2) By December 31, 2011, the department shall provide the  
34 legislature with a schedule by water resource inventory area or source  
35 of water showing when and where it will process water right

1 applications between the effective date of this section and July 1,  
2 2021.

3 (3) By July 1, 2017, the department shall provide all applicants  
4 with permit applications pending as of the effective date of this  
5 section the opportunity to be processed by the department either  
6 individually or pursuant to a coordinated cost-reimbursement agreement.  
7 If an applicant is offered the opportunity to be processed by the  
8 department prior to July 1, 2017, but declines, the department may  
9 limit future processing of that application to either the cost-  
10 reimbursement process pursuant to RCW 90.03.265 or require the  
11 applicant to submit its own draft report of examination at the time  
12 when the applicant is prepared to have the application processed.

13 (4) The department shall conduct a comprehensive review of its  
14 water rights application review procedures, with the objective of  
15 simplifying the procedures, eliminating unnecessary steps, and  
16 decreasing the time required to fully process an application from  
17 filing through a final decision. The department shall seek  
18 recommendations from a diverse group of stakeholders and government  
19 representatives familiar with the department's water rights processing  
20 and water resource management activities and provide stakeholders an  
21 opportunity to comment upon proposals for administrative or legislative  
22 changes to simplify procedures.

23 (5) The department shall implement changes to improve water rights  
24 processing for which it has current administrative authority by January  
25 1, 2012.

26 (6)(a) The department shall provide a report to the legislature,  
27 consistent with RCW 43.01.036, by December 31, 2011, and shall  
28 supplement and update the report every even-numbered year thereafter to  
29 document continuing process improvements.

30 (b) The report must summarize:

31 (i) The review conducted;

32 (ii) The proposals considered by the department, including those  
33 forwarded by stakeholders;

34 (iii) The changes implemented; and

35 (iv) Recommendations for any legislation necessary to implement  
36 additional changes.



PART 6

ADMINISTRATIVE PROVISIONS

1  
2  
3  
4  
5  
6

NEW SECTION. **Sec. 601.** Section 202 of this act expires June 30,  
2019.

NEW SECTION. **Sec. 602.** Section 203 of this act takes effect June  
30, 2019.

--- END ---