

## Chapter 173-136 WAC

### THE ESTABLISHMENT OF A SYSTEM OF AUTHORIZING THE WITHDRAWAL OF ARTIFICIALLY STORED GROUNDWATERS EMBODIED IN AN APPROVED DECLARATION UNDER RCW 90.44.130, WHICH ARE COMMINGLED WITH PUBLIC GROUNDWATERS IN GROUNDWATER AREAS, SUBAREAS, AND ZONES ESTABLISHED UNDER RCW 90.44.130

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#### WAC

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**WAC 173-136-010 Purpose of chapter.** The purpose of this chapter is to establish a permit system as a part of a comprehensive state water management and regulatory control program pertaining to the withdrawal and use of groundwaters consisting of commingled artificially stored groundwaters and public waters located in areas, subareas, and zones designated pursuant to RCW 90.44.130. The permit system established in this chapter relates only to the withdrawal and use of artificially stored groundwaters of such groundwaters.

[Order 74-36, § 173-136-010, filed 1/9/75.]

**WAC 173-136-020 Definitions—This chapter.** Definitions. For purposes of this chapter the following definitions shall apply. (It is noted that the (2) and (6) hereof are not intended to be identical with definitions contained in RCW 90.44.035.)

(1) "Area, subarea, or zone" means a ground water area, subarea, or zone designated by the department of ecology pursuant to RCW 90.44.130(3), which contains commingled artificially stored and public ground waters.

(2) "Artificially stored ground waters" mean water beneath the land surface within an area, subarea, or zone(s) which are the subject of a declaration accepted by the department of ecology pursuant to RCW 90.44.130(6).

(3) "Department" means the department of ecology.

(4) "Ground waters" means all waters beneath the land surface of an area, subarea, or zone.

(5) "Person" means individual, public, or private corporation, municipality, county, partnership, association, federal, or state agency or body, or any other entity whatsoever.

(6) "Public ground waters" means all ground waters within an area, subarea, or zone other than artificially stored ground waters.

[Order 74-36, § 173-136-020, filed 1/9/75.]

**WAC 173-136-030 Permit to withdraw.** No person, unless expressly exempted by a specific management regulation of the department adopted for an area or subarea, may withdraw any artificially stored groundwa-

ters for beneficial use from any area, subarea, or zone without first obtaining a permit from the department of ecology as hereinafter provided. An application for a permit shall be submitted on a form provided by the department. The application shall contain the following information:

- (1) Name
- (2) Address
- (3) Point of withdrawal
- (4) Place of use
- (5) Purpose of use
- (6) Time of use
- (6a) Amounts of withdrawal, including both maximum rate and the total volume each calendar year
- (7) The area, subarea, and zone from which the waters are to be withdrawn.

[Order 74-36, § 173-136-030, filed 1/9/75.]

**WAC 173-136-040 Criteria for ruling upon application for permits.** (1) The criteria for ruling on an application for a permit are as follows. An application shall be approved if:

- (a) Artificially stored waters are available for withdrawal; and
  - (b) The public interest will not be detrimentally affected; and
  - (c) Rights to withdraw public water will not be impaired; and
  - (d) The interests of the holder embodied [embodied] in a declaration accepted by the department pursuant to RCW 90.44.130(6) will not be impaired.
  - (e) The withdrawal and use proposed in the application can be performed consistent with the provision of the chapter of the Washington Administrative Code containing the water management and regulation regulations for the specific groundwater area, subarea, or zone to which the application relates.
- (2) Prior to issuance of a permit to withdraw artificially stored groundwater, the department shall consult with the holder of a declaration accepted by the department pursuant to RCW 90.44.130.

[Order 74-36, § 173-136-040, filed 1/9/75.]

**WAC 173-136-050 Public notice of application and public hearings—When required.** (1) Public notices of applications filed with the department shall be required by the department only when it appears to the department that the public interest will be served. When a notice is required the applicant shall be responsible for its publication in a form, manner, and frequency as determined by the department unless otherwise specified.

(2) Public hearings on such applications shall be required by the department only when it appears to the department that the public interest will be served.

[Order 74-36, § 173-136-050, filed 1/9/75.]

**WAC 173-136-060 Permits—Priorities and conditions of right of withdrawal.** Every permit issued pursuant to this chapter shall be:

(1) Conditioned to insure the protection of public interest and values and of the rights of withdrawal and use established in public waters and artificially stored groundwaters both prior and subsequent to the issuance of such a permit.

(2) Conditioned to comply with the provisions of the chapter of the Washington Administrative Code containing the water management and regulation regulations for the specific groundwater area, subarea, or zone to which the application relates.

(3) Conditioned to provide for inspection, monitoring, entry, and reporting of data by or to the department and the holder of an accepted declaration as required by the department.

(4) Conditioned to provide that a permit shall be subject to termination or modification for failure to comply with any agreement, approved by the department, between the permittee and the holder of a declaration accepted by the department of ecology pursuant to RCW 90.44.130.

(5) Subject to termination or modification, through issuance of supplemental orders of the department, for good cause, including but not limited to:

(a) Violation of a permit condition;

(b) Obtaining a permit by misrepresentation or failure to fully disclose all relevant facts;

(c) The receipt of new facts or information dictate the same.

[Order 74-36, § 173-136-060, filed 1/9/75.]

**WAC 173-136-070 Permits do not establish or embody water rights.**

Permits issued pursuant to this chapter do not establish or embody water rights as provided in RCW 90.44.050 and 90.44.060.

[Order 74-36, § 173-136-070, filed 1/9/75.]

**WAC 173-136-080 Permits shall be transmitted to the holder of a declaration.** A copy of each permit issued by the department under this chapter shall be transmitted, at the time of issuance, to the holder of a declaration accepted by the department pursuant to RCW 90.44.130 pertaining to artificially stored groundwater.

[Order 74-36, § 173-136-080, filed 1/9/75.]

**WAC 173-136-090 Failure to obtain permit—Unlawful.** Failure to comply with the provisions of this chapter, including failure to obtain a permit as required herein and violation of a condition of such a permit, shall constitute a basis for the imposition of civil and criminal sanctions contained in applicable state statutes.

[Order 74-36, § 173-136-090, filed 1/9/75.]

**WAC 173-136-095 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 issu-

ance of regulatory orders under RCW 43.27A.190 and civil penalties under RCW 90.03.600.

[Statutory Authority: Chapters 43.21A, 43.27A, 90.03 and 90.44 RCW. WSR 88-13-037 (Order 88-11), § 173-136-095, filed 6/9/88.]

**WAC 173-136-100 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: Chapters 43.21A, 43.27A, 90.03 and 90.44 RCW. WSR 88-13-037 (Order 88-11), § 173-136-100, filed 6/9/88; Order 74-36, § 173-136-100, filed 1/9/75.]

**WAC 173-136-110 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: Chapters 43.21A, 43.27A, 90.03 and 90.44 RCW. WSR 88-13-037 (Order 88-11), § 173-136-110, filed 6/9/88.]