

Preliminary Draft for Public Comment – Ecology is requesting input from affected stakeholders and the public on this preliminary draft rule language. We will not prepare written responses to the input we receive on this early version of the rule. We will prepare written responses to the comments we receive after the proposed rule language is filed with the State Code Reviser.

Chapter 173-557 WAC - Water Resource Management Program for the Spokane River and Spokane Valley Rathdrum Prairie (SVRP) Aquifer

WAC Sections

- 173-557-010 - Authority and Purpose**
- 173-557-020 - Applicability**
- 173-557-030 - Definitions**
- 173-557-040 - Stream management units**
- 173-557-050 - Instream Flows**
- 173-557-060 - Future new uses of water**
- 173-557-070 - Changes and transfers of existing water rights**
- 173-557-080 - Compliance and enforcement**
- 173-557-090 - Appeals**
- 173-557-100 - Regulation review**
- 173-557-110 - Map of the rule area with control points**

New Section

WAC 173-557-010 - Authority and Purpose. (1) The department of ecology (ecology) adopts this rule under the authority of the Watershed Planning Act (chapter 90.82 RCW), Water Resources Act of 1971 (chapter 90.54 RCW), Water code (chapter 90.03 RCW), Regulation of public groundwaters (chapter 90.44 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), RCW 43.21A.064(9) and 43.21A.080, and the Water Well Construction statute (chapter 18.104 RCW); and in accordance with the water resources management program regulation (chapter 173-500 WAC).

(2) The purposes of this rule are to:

- (a) Establish instream flow levels necessary to protect wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, navigational values, and stock watering requirements;
- (b) Meet water resource management objectives of the Spokane area watershed plans adopted under RCW 90.82; to protect existing water rights; and
- (c) Establish and protect Washington State interests in the water resources of the Spokane River.

(3) In enacting this rule, ecology uses the Middle Spokane Water Resource Inventory Area (WRIA 57) and Lower Spokane Water Resource Inventory Area (WRIA 54) watershed plans as

the framework for making future water resource decisions for the Spokane River and SVRP Aquifer, as stated in RCW 90.82.130.

(a) The plan recommendations were approved by the Spokane area watershed planning units. The joint watershed plan for WRIA 57 and the Little Spokane watershed (WRIA 55, which is not included in this rule) was adopted by Spokane County, Stevens County, and Pend Oreille County commissioners on January 31, 2006. The WRIA 54 watershed plan was adopted by Spokane County, Lincoln County, and Stevens County commissioners on October 22, 2009.

(b) In accordance with RCW 90.82.130(4), in developing this chapter ecology has relied on watershed plan recommendations as a primary consideration in determining the public interest in water resource management for the Spokane River.

(4) This rule sets forth ecology's policies to guide the protection, use, and management of Spokane River basin surface water and the SVRP aquifer. It protects existing water rights, establishes instream flows, and sets forth a program for the management and administration of future water allocation and use.

New Section

WAC 173-557-020 – Applicability. (1) This rule applies to the mainstem of the Spokane River and all surface and groundwaters within that portion of Spokane County, Washington inside the boundary of the Spokane Valley Rathdrum Prairie Aquifer, as identified in U.S. Geological Survey Scientific Investigations Report 2007-5041. The map provided in WAC 173-557-110 is for informational purposes only. Hydrologic evidence of the SVRP aquifer determines applicability of this rule.

(2) This rule does not supersede the instream flow rule of the Little Spokane River (Chapter 173-555 WAC), except where a proposed withdrawal is from waters in direct hydraulic continuity with the SVRP Aquifer as determined by ecology:

(a) New water use from the Little Spokane River, its tributaries, and the shallow aquifer associated with the Little Spokane River and its tributaries shall be regulated under WAC 173-555; and

(b) New water use from the SVRP Aquifer shall be regulated under this rule (Chapter 173-557 WAC).

(3) This rule applies to the use and appropriation of surface and groundwater begun after the effective date of this chapter. This chapter shall not affect:

(a) Existing surface and groundwater rights established prior to adoption of the state surface water and groundwater codes, or by water right permit issued under state law, unless otherwise provided for in the conditions of the water right in question.

(b) Groundwater rights established under the groundwater permit-exemption in RCW 90.44.050 where regular beneficial use began before the effective date of this chapter; and

(c) Federal and tribal reserved rights.

(4) Changes to or transfers of existing rights are addressed in WAC 173-557-070.

New Section

WAC 173-557-030 – Definitions.

“Appropriation” means the process of legally acquiring the right to use specific amounts of water for beneficial uses, consistent with the ground and surface water codes and other applicable water resource statutes

“Consumptive use” means use of water that diminishes the volume or quality of the water source.

“Ecology” or “department” means the Washington state department of ecology.

“Hydraulically connected” means saturated conditions exist that allow water to move between surface water and groundwater, or between groundwater sources.

“Instream flow” means a stream flow level set in rule to protect and preserve fish, wildlife, scenic, aesthetic, recreational, water quality, and other environmental values; navigational values; and stock watering requirements. The term "instream flow" means "base flow" under chapter 90.54 RCW, "minimum flow" under chapters 90.03 and 90.22 RCW, and "minimum instream flow" under chapter 90.82 RCW.

“Mitigate” or “Mitigated” means actions taken to offset adverse impacts by future water appropriations to senior water rights, including the instream flow levels set in WAC 173-557-050.

“Permit-exempt groundwater withdrawal” means a groundwater withdrawal exempted from ecology water right permitting requirements under RCW 90.44.050, but which is otherwise subject to the groundwater code and other applicable regulations.

“Public water system” means any system providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm (Chapter 246-290 WAC).

“Stream management unit” means a stream segment, reach, or tributary used to describe the area to which a particular use, action, or instream flow level applies. Each of these units contains a control station. A map of the control stations is included in this chapter (WAC 173-557-110).

“SVRP Aquifer” means the Spokane Valley Rathdrum Prairie Aquifer.

“U.S. Geologic Survey Scientific Investigations Report 2007-5041” refers to the Hydrogeologic Framework and Ground Water Budget of the Spokane Rathdrum Prairie Aquifer, Spokane County, Washington, and Bonner and Kootenai Counties, Idaho; U.S. Geologic Survey Scientific Investigations Report 2007-5041 by Kahle, S.C., and Bartolino, J.R., 2007.

“Withdrawal” means the extraction and beneficial use of groundwater, or the diversion and beneficial use of surface water.

New Section

WAC 173-557-040 - Stream management units. Stream management units, control stations, and their application to surface and groundwater withdrawals are established as shown in Table I. Control stations are shown in the map in section 110 of this rule.

Table 1
Stream Management Unit Information

Stream Management Unit Name and Control Station Gauge #	Control Station by River Mile (RM); Latitude (Lat.), Longitude (Long.)	Application to surface and groundwater withdrawals
Spokane River at Spokane USGS gage #12422500	RM 72.9; 47.65983N, 117.44911W (NAD 83)	Year-round instream flows for regulating surface water withdrawals from Sullivan Road Bridge to Seven Mile Bridge, and for regulating groundwater withdrawals within the boundary of the SVRP Aquifer in Washington State
Spokane River at Greenacres (Barker Road) USGS gage #12420500	RM 90.5; 47.67740N, 117.15215W (NAD 83)	June 16-September 30 instream flows for regulating surface water withdrawals between the Idaho state line and Sullivan Road Bridge

New Section

WAC 173-557-050 – Instream Flows

(1) The instream flows established in this chapter are based on detailed habitat studies of the Spokane River conducted for watershed planning and other purposes, and the recommendations of the Watershed Management Plan for Water Resources Inventory Area WRIA 57 – Middle Spokane River and WRIA 54 – Lower Spokane Watershed Plan.

(2) The priority date of the instream flows is the effective date of this chapter.

(3) Instream flows, expressed in cubic feet per second (cfs), are shown in Table 2. Instream flows are measured at the stream management control points and apply to the stream management units described in Table 1.

Table 2
Instream Flows for the Spokane River

Spokane River at Spokane	
October 1 – March 31	1,700 cfs
April 1 – June 15	6,500 cfs
June 16 – September 30	850 cfs
Spokane River at Greenacres (Barker Rd.)	
June 16 – September 30	500 cfs

New Section

WAC 173-557-060 – Future new uses of water

(1) Instream flows established in this rule are water rights and will be protected from impairment by any new water rights commenced after the effective date of this chapter within the area regulated under this chapter, including new permit-exempt groundwater withdrawals.

(2) Based on the hydrogeology of the aquifer as described in U.S. Geologic Survey Scientific Investigations Report 2007-5041, ^{AL}ecology determines that surface water in the Spokane River

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and groundwater within the SVRP Aquifer are hydraulically connected. New groundwater withdrawals from the SVRP Aquifer will be managed to protect the instream flows established in this rule.

(3) Within the area regulated under this rule, public water suppliers are the primary sources of water for new uses. If water is not available from a public water system, the consumptive use impacts to surface water from new permit-exempt groundwater withdrawals must be mitigated when stream flow is below the instream flows established in this rule. Ecology has placed water into the Trust Water Right Program (chapter 90.42 RCW) to mitigate for new permit-exempt groundwater withdrawals when water from a public water system is not available in a timely and reasonable manner. Users of new permit-exempt groundwater withdrawals shall also be required to meter their withdrawals in accordance with subsection (5), below.

(4) Water right permits authorized after the effective date of this rule will be conditioned to prevent impairment of instream flows established in this rule.

(5) All future new surface and groundwater appropriations, other than rainwater collection, shall measure withdrawals.

(a) Water meters must meet specifications available through ecology.

(b) Water meters must be read and reported in accordance with chapter 173-173 WAC or as directed by ecology.

New Section

WAC 173-557-070 - Changes and transfers of existing water rights

No changes to, or transfers of, existing surface and groundwater rights in the area covered under this rule shall hereafter be granted if they conflict with the protection of the instream flow levels established in this chapter. Any change or transfer proposal can be approved only if there is a finding that existing rights, including the instream flows established in this chapter, will not be impaired.

New Section

WAC 173-557-080 - Compliance and enforcement

Ecology shall enforce this rule in accordance with chapters 90.03 and 90.44 RCW, and any other applicable laws and rules.

New Section

WAC 173-557-090 - Appeals

All final written decisions of Ecology pertaining to water right permits, regulatory orders, and related water right decisions made pursuant to this rule are subject to appeal to the pollution control hearings board in accordance with chapter 43.21B RCW.

New Section

WAC 173-557-100 - Regulation review

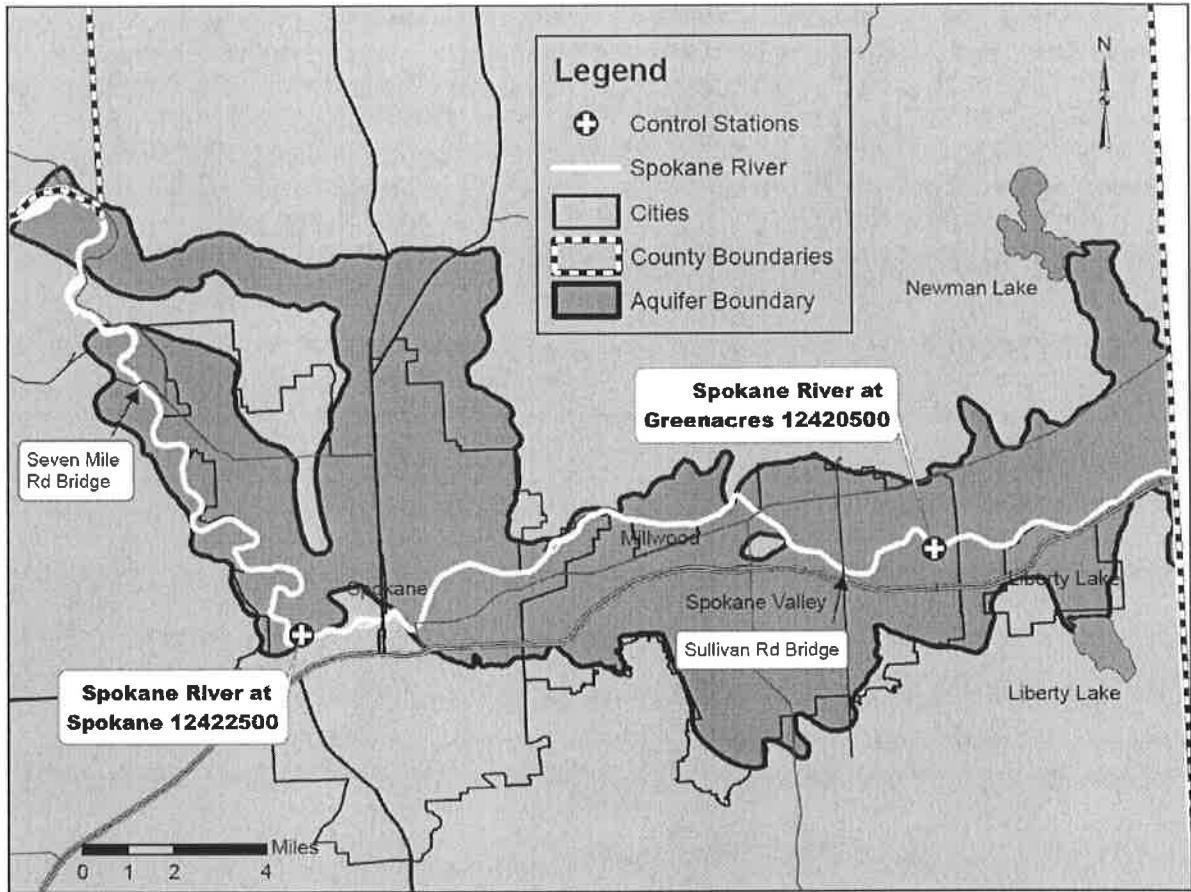
Ecology, after consultation with local, tribal, and state governments, may initiate a review, and if necessary amend this chapter, following the procedures of chapter 34.05 RCW, if significant new information becomes available, a significant change in conditions occurs, or statutory changes are enacted that are determined by the department to require review of this rule.

New Section

WAC 173-557-110 - Map of the rule area with control points

In administering this chapter, hydrologic evidence of the aquifer as defined in WAC 173-557-020(1) determines applicability. The map in Figure 1, below, generally reflects the boundary of the aquifer and is provided for informational purposes only.

Figure 1 - Spokane River and Spokane Valley Rathdrum Prairie (SVRP) Aquifer – rule area and control stations



Chapter 173-555 WAC

WATER RESOURCES PROGRAM IN THE LITTLE SPOKANE RIVER BASIN, WRIA

55

Last Update: 6/9/88

WAC

173-555-010	General provision.
173-555-020	Definition.
173-555-030	Establishment of base flows.
173-555-040	Future allocations—Reservation of surface water for beneficial uses.
173-555-050	Priority of future water rights during times of water shortage.
173-555-060	Streams and lakes closed to further consumptive appropriations.
173-555-070	Effect on prior rights.
173-555-080	Enforcement.
173-555-090	Appeals.
173-555-100	Regulation review.

WAC 173-555-010 General provision. These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Little Spokane River basin, WRIA-55 (see

WAC 173-500-040). Chapter 173-500 WAC, the general rules of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter 173-555 WAC.

(1) New water use from the Little Spokane River, its tributaries, and the shallow aquifer associated with the Little Spokane River and its tributaries shall be regulated under this rule (Chapter 173-555 WAC).

(2) New water use from the Spokane Valley Rathdrum Prairie Aquifer shall be regulated under Chapter 173-557 WAC, Water Resource Management Program for the Spokane River and Spokane Valley Rathdrum Prairie (SVRP) Aquifer.

[Order DE 75-24, § 173-555-010, filed 1/6/76.]