

Overview of the Lewis and Salmon-Washougal Water Resources Management Program Rules (WAC 173-527 + WAC 173-528)

Note: This document summarizes the water management rules adopted on December 19, 2008. They take effect on January 19, 2009.

The rules only affect water right decisions made after their adoption date. They do not affect people with existing water rights.

Introduction

The Lewis and Salmon-Washougal Water Resource Inventory Areas (WRIAs) 27 and 28 are located in southwest Washington State and comprise all of Clark County, southern Cowlitz County, portions of western and north-central Skamania County, and a very small portion of Yakima County.



The Department of Ecology (Ecology) adopted two water management rules, one for the Lewis River Basin (WRIA 27) and the other for the Salmon-Washougal River Basin (WRIA 28). The rules are based on the recommendations of the Watershed Plan developed by the locally-led WRIA 27/28 Planning Unit.



Working under the Watershed Planning Act, the 36-person Planning Unit represents a wide variety of interests, including counties, cities, citizens, water purveyors, and other organized groups. The Plan was developed through a collaborative, five-year-long process, and was approved by Clark, Cowlitz and Skamania counties in July 2006.

Elements of the rules

The rules include five key elements:

- Setting instream flows
- Closing sub-basins to future withdrawals
- Designating “regional supply areas” for future water supply
- Establishing reservations of water for future use
- Specifying conditions of use for access to the water reserves.

Instream flows

Stream flows are the amount of water flowing in a stream or river. “Instream flows” are stream flows protected in a rule. They are the flow levels needed in the river to protect and preserve instream resources and uses, including wildlife, fish, recreation, navigation, aesthetics, water quality and livestock watering.

An instream flow rule establishes a water right for the stream and is, in essence, a water right for fish and other instream resources. The rules specify the amount of water needed in a particular place for a defined time, and typically follow seasonal variations.

The rules set instream flows for the Kalama, North Fork Lewis, East Fork Lewis and Washougal River mainstems. Instream flows are also set on 30 smaller streams.

Closures

“Closure” refers to closing a specified water body to new uses. Closures protect areas where instream flow levels are not met, as well as existing water users.

Because of low flows and water levels, the rules close most surface and ground water sources in WRIsAs 27/28 to future withdrawals.

Since this means that most requests for new water uses would be denied, the rules include exceptions to the closures, including reservations of water (see “Reservations of water for future use”), temporary use for environmental projects, and seasonal uses (described below).

The rules allow for seasonal (interruptible) uses, which are limited amounts of water for use during high flow periods, from the bigger rivers that can support these withdrawals. Seasonal uses are only allowed from November 16 to May 14, and only on the following rivers:

- Kalama River (WRIA 27)
- North Fork Lewis River (below Merwin Dam) (WRIA 27)
- East Fork Lewis (WRIA 27)
- Washougal River (WRIA 28)

The rules also leave certain areas potentially open to new withdrawals, designated as “regional supply areas.”

Regional supply areas

“Regional supply areas” are defined areas where Ecology finds water available year-round for future ground water withdrawals.

In the Watershed Plan, the local Planning Unit recognized the long-term advantages of shifting future ground water withdrawals away from sources that impact water-critical headwaters. The Planning Unit identified areas in the lower portions of the watersheds as “regional supply areas” where new ground water withdrawals could potentially occur without impacting streams. The regional supply areas defined in the rules are:

- Lower Lewis River near the Columbia River (WRIA 27)



- Vancouver Lake Lowlands Area (WRIA 28)
- Steigerwald Wildlife Refuge Area (WRIA 28)

Reservations of water for future use

A reservation, or reserve, of water is a one-time, finite amount of water set aside for specific future uses. Reservations usually have conditions of use required to access them.

The rules create reserves of water intended to provide enough water to meet community 20-year growth projections. The specific amounts were determined by careful data review and negotiations between technical staff from the state Departments of Ecology and Fish & Wildlife, and local entities and other interested stakeholders. The discussions resulted in reserve quantities that represent a balance between the projected needs of people and minimal impacts to stream flows.

The reserves are distributed on a sub-basin basis. Within each sub-basin, a specific amount of water is available to certain users, including:

- Small water systems,
- City/county systems,
- Public utility districts, and
- Individual permit-exempt domestic wells.

In the state Ground Water Code, the “ground water permit exemption” (RCW 90.44.050) allows for certain uses of small quantities of ground water without obtaining a permit from Ecology. While exempt from the permitting process, these withdrawals are still subject to all other state water laws.

The reservations are not subject to the instream flows or closures. Water use from a reservation is still subject to state laws: for example, the use cannot affect existing water users. In addition, the Planning Unit recommended establishing conditions of use for using water from the reservation (see below).

Note: In order for water resources management and strategies to be consistent throughout WRIAs 27/28 and based on current science, WAC 173-592 has been repealed. The 1986 rule established a ground water reservation for Clark County. Ground water management now falls under the new rules.

Reservation conditions of use

The conditions of use proposed for accessing reservation water are intended to support water supply planning and will stretch both instream and out-of-stream water supplies.

Applicants for a new water right from the reservation will first have to show that their water needs cannot be met through any other means, such as hooking up to a regional public water system.

If use of the reservation is unavoidable, applicants are required to offset the impacts of their water use:

- To the greatest extent possible, impacts must be offset through water-related actions. This

could be done by donating water to the state trust water rights program, or buying existing water rights.

- Any remaining portion of water use must be offset through habitat-related projects. Habitat-related projects create or enhance lost habitat, and include laying down large woody debris, riparian plantings, or restoring side channels.

Water use from the reservation through permit-exempt wells are not required to meet any of the above conditions prior to use.

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Ecology WRIA 27/28 website:
http://www.ecy.wa.gov/programs/wr/instream-flows/lewis_salmon_washougal.html

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