



DEPARTMENT OF
ECOLOGY
State of Washington

Implementation Plan
Chapter 173-166 WAC
Emergency Drought Relief

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Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

On April 11, 2018, Ecology adopted amendments to Chapter 173-166 WAC Emergency Drought Relief (AO # 17-01). The purpose of this rule implementation plan is to inform those who must comply with Chapter 173-166 WAC about how Ecology intends to:

- Implement and enforce the rule.
- Inform and educate persons affected by the rule.
- Promote and assist voluntary compliance for the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology staff who can answer questions about the rule implementation.

Implementation and Enforcement

No change in actual practices is anticipated. We will implement the amended rule with existing staff and resources, unless a drought is declared and the Legislature appropriates funding to respond and provide drought relief. We will use previous practices monitoring state water supplies, determining and declaring a drought when warranted. Existing permitting staff process applications for emergency drought water rights and temporary water right transfers in areas with a

declared drought, generally postponing work on other types of permitting activities. Emergency drought funding may be used to hire temporary field staff to help monitor stream flow conditions and watch for potential illegal water use.

If the Legislature appropriates funds for a drought relief grant or loan program, we will adopt an emergency rule to implement the funding program as designated in the budget proviso. Such a program requires managers and staff in the program to coordinate the application process, investigate applications (including cultural review), make funding decisions, and process and manage the individual grants and loans. This has typically been done using existing Water Resources Program managers and staff, with the support of staff in other programs and outside the agency under contract, using a portion of the emergency funding.

Informing and Educating Persons Affected by the Rule

The amendment will have negligible effect on anyone, inside or outside the agency, beyond promoting regulatory clarity and consistency.

We have communicated about the amendment with people concerned with water management within the state through the Water Resources ListServ; communications in meetings, on a designated website, and through email with members of the Water Resource Advisory Committee; and mailed notification of each step of the rulemaking process to tribal chairmen and natural resource managers.

Promoting and Assisting Voluntary Compliance

The amendment does not change the need for those receiving emergency water rights or transfers to comply with the conditions of their permit. In enforcing water right conditions, we strive for voluntary compliance first, except in egregious circumstances.

Evaluating the Rule

The rule was first adopted 27 years ago. In an effort to improve our preparedness and response to drought, we recently completed an assessment of our current tools and practices, as well as many alternative, new, or developing methods. We were only able to incorporate a few elements in this rule amendment due to both the current rulemaking timeline and the need for Legislative action on many of the recommendations. We anticipate a second rule amendment if legislation does occur.

Training and Informing Ecology Staff

No additional training is necessary for implementing the amended rule as key staff was involved in developing the rule amendment language. The Water Resources Program will be informed by email of the adoption of the amendment.

List of Supporting Documents that May Need to be Written or Revised

None.

More Information

- Chapter 43.83B RCW: <http://app.leg.wa.gov/RCW/default.aspx?cite=43.83B>
- Chapter 173-166 WAC: <http://app.leg.wa.gov/WAC/default.aspx?cite=173-166&full=true>
- This rulemaking: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-166-Aug17>
- Washington water supply conditions: <https://ecology.wa.gov/Water-Shorelines/Water-supply/Water-availability/Statewide-conditions>

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