

Streamflow Restoration under Chapter 90.94 RCW

Progress on Implementation



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More Information

Our [Streamflow Restoration webpage](#) has information and resources on:

- Committee progress
- Policy interpretations
- Funding guidelines and process
- The net ecological benefit standard
- Technical guidance

<https://ecology.wa.gov/Water-Shorelines/Water-supply/Streamflow-restoration>

In January 2018, the Washington State Legislature passed ESSB 6091 to help protect our state's water resources while also providing water for homes in rural Washington. Upon passage of the law (now primarily codified in Chapter 90.94 RCW), the Department of Ecology immediately began implementation. Ecology's Water Resources Program worked quickly to analyze key provisions and communicate requirements to local governments, tribes, and stakeholders.

This focus sheet highlights what has been accomplished since the law passed, and key upcoming milestones.

Planning Committees

- The law requires planning in 15 watersheds that were impacted by the 2016 *Hirst* decision. Watershed plans must, at a minimum, recommend actions to offset the potential consumptive impacts on instream flows of new permit-exempt well domestic water uses, and result in a net ecological benefit to the watershed. The law requires that Ecology adopt the planning group-approved updated watershed plans or that rulemaking be initiated.
- In 7 watersheds, planning groups originally formed under the Watershed Planning Act (Chapter 90.82 RCW) are required to update their existing watershed plans. 5 groups have reconvened and are actively planning. 2 groups had expedited deadlines of February 1, 2019 and their planning stage is complete.
 - Ecology adopted the watershed plan addendum approved by the Nisqually planning group (WRIA 11) on February 1, 2019.
 - Tremendous collaborative work was accomplished in the Nooksack basin (WRIA 1). Ecology will build upon these successes during the rulemaking process, which began on February 5, 2019.
- In the 8 other watersheds, Ecology chairs committees of local governments, tribes, and stakeholders charged with developing watershed restoration plans where none were previously adopted. Members of these committees were determined in accordance with the law and all committees are actively meeting.

- **What's next?** The law requires that Ecology adopt the planning group-approved watershed plans for the remaining watersheds by February and June 2021, or that rulemaking be initiated. These groups are working hard to meet their deadline. Nooksack (WRIA 1) rulemaking is anticipated to be complete by August 2020.

Grants Program

- The Legislature appropriated up to \$20 million for Streamflow Restoration projects for FY 2018/2019.
- We quickly launched a grant program for these projects. The first round of grants focused on projects that improve streamflows and instream resources. We received 46 applications for projects and selected 15 projects in 11 watersheds for funding.
- **What's next?** We have initiated rulemaking (chapter 173-566) to guide future funding cycles under this 15-year grant program. We anticipate adopting the rule in June 2019.

Net Ecological Benefit (NEB)

- The new law requires us to determine that a net ecological benefit will result from implementing projects identified in new and updated watershed plans adopted per the statute's requirements.
- In June 2018, we issued "Interim Guidance for Determining Net Ecological Benefit" to assist those watershed planning groups who were on expedited planning tracks and the "Foster" mitigation pilot projects.
- We are developing final guidance on NEB that will apply to watershed plans due in 2021. To gather input, we hosted 6 statewide public workshops in October 2018 and collected written feedback through our website. We also are receiving technical advice from researchers at Washington State University and federal resource management agencies.
- **What's next?** We plan to issue the final guidance in 2019.

"Foster" Mitigation Pilot Projects

- To address impacts of the 2015 *Foster* decision, the new law established the Joint Legislative Task Force on Water Resource Mitigation and authorized Ecology to issue permit decisions for up to 5 water resource mitigation pilot projects.
- The 5 pilot projects may submit water permit applications reliant on an alternative mitigation sequence, which may include out-of-kind mitigation or habitat improvements to compensate for impacts the project would have on instream flows and closed surface water bodies.
- We have met with all 5 pilot project applicants and have received their conceptual mitigation plans. We presented the conceptual mitigation plans to the Joint Legislative Task Force in December 2018.
- **What's next?** We will continue to work closely with project proponents on their mitigation plans.

Ecology Staffing

- To fulfill the requirements of the new law, we have built a new Streamflow Restoration Section within the Water Resources Program. This section is dedicated to the successful implementation of the law. This statewide team includes technical professionals, environmental planners, policy experts, and support staff.

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