Chapter 173-557 WAC

WATER RESOURCES MANAGEMENT PROGRAM FOR THE SPOKANE RIVER AND SPOKANE VALLEY RATHDRUM PRAIRIE (SVRP) AQUIFER

Last Update: 1/27/15

WAC

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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), Water well construction (chapter 18.104 RCW); RCW 43.21A.064(9) and 43.21A.080; 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 chapter 90.82 RCW;

(c) Protect existing water rights; and

(d) Establish and protect Washington state interests in the water resources of the Spokane River.

(3) In accordance with RCW 90.82.130(4), in developing this chapter ecology refers to the Middle Spokane water resource inventory area (WRIA 57) and Lower Spokane water resource inventory area (WRIA 54) watershed plan recommendations as a consideration in determining the public interest in water resource management for the Spokane River.

The plan recommendations were approved by the Spokane area watershed planning units. The joint watershed plan for the Middle Spokane

watershed (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 Lower Spokane (WRIA 54) watershed plan was adopted by Spokane County, Lincoln County, and Stevens County commissioners on October 22, 2009.

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

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-010, filed 1/27/15, effective 2/27/15.]

WAC 173-557-020 Applicability. (1) This rule applies to the mainstem of the Spokane River and all surface water and groundwater within the boundary of the SVRP 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 hydraulic continuity with the SVRP aquifer as determined by ecology. In the area where this rule and chapter 173-555 WAC overlap, the application of each rule shall be determined as follows:

(a) New water use from the Little Spokane River, its tributaries, and the shallow aquifer associated with the Little Spokane River and its tributaries that is not part of the SVRP aquifer shall be regulated under chapter 173-555 WAC; and

(b) New water use from the SVRP aquifer shall be regulated under chapter 173-557 WAC.

(3) Chapter 173-557 WAC applies to the use and appropriation of surface water and groundwater begun after the effective date of this chapter. This chapter shall not affect:

(a) Existing surface water and groundwater rights established prior to adoption of the state surface water and groundwater codes, or by water right permit authorized 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.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-020, filed 1/27/15, effective 2/27/15.]

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 new water appropriations on senior water rights, including the instream flow levels set in WAC 173-557-050.

"Municipal water supplier" means an entity that supplies water for municipal water supply purposes as defined in RCW 90.03.015.

"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.

"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 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 groundwater budget of the Spokane Valley 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.

"**Water resource inventory area (WRIA)**" means one of the sixty-two areas designated by the state of Washington through chapter 173-500 WAC to delineate area boundaries within the state for water management purposes.

"**Withdrawal**" means the extraction and beneficial use of groundwater, or the diversion and beneficial use of surface water.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-030, filed 1/27/15, effective 2/27/15.]

WAC 173-557-040 Stream management units. Stream management units, control stations, and their application to surface water and groundwater withdrawals are established as shown in Table 1. Control stations are shown in the map in WAC 173-557-110.

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 Water and Groundwater Withdrawals
Spokane River at Spokane USGS gauge #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 gauge #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

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-040, filed 1/27/15, effective 2/27/15.]

WAC 173-557-050 Instream flows. (1) The priority date of the instream flows established in this chapter is the effective date of this chapter.

(2) Instream flows, expressed in cubic feet per second (cfs), are shown in Table 2 of this section. Instream flows are monitored at the stream management control stations and apply to the stream management units described in WAC 173-557-040, 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 Road)	
June 16 - September 30	500 cfs

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-050, filed 1/27/15, effective 2/27/15.]

WAC 173-557-060 Future new uses of water. (1) Instream flows established in this rule are water rights and shall be protected from impairment by:

(a) New water right permits approved by ecology after the effective date of this chapter; or

(b) Permit-exempt withdrawals established within the area regulated under this chapter after the effective date of this chapter.

(2) Based on the hydrogeology of the SVRP aquifer as described in *U.S. Geologic Survey Scientific Investigations Report 2007-5041*, ecology determines that surface water in the Spokane River and groundwater within the SVRP aquifer are hydraulically connected. New appropriations from the SVRP aquifer will be managed to protect the instream flows established in this rule.

(3) Within the area regulated under this rule, municipal water suppliers are the primary sources of water for new uses. If water is

not available in a timely and reasonable manner from a municipal water supplier, the consumptive use impacts to surface water from new permit-exempt groundwater withdrawals must be interrupted when stream flow is below the instream flows established in this rule, unless those impacts are mitigated. Mitigation must be achieved through an ecology-approved mitigation plan.

(4) The consumptive use impacts to surface water from water right permits approved by ecology after the effective date of this rule must be interrupted when stream flow is below the instream flows established in this rule, unless those impacts are mitigated. Water right permits approved by ecology after the effective date of this rule shall be conditioned to prohibit impairment of instream flows established in this rule.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-060, filed 1/27/15, effective 2/27/15.]

WAC 173-557-070 Changes and transfers of existing water rights. No changes to, or transfers of, existing surface water 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 es-

tablished 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.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-070, filed 1/27/15, effective 2/27/15.]

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.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-080, filed 1/27/15, effective 2/27/15.]

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.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-090, filed 1/27/15, effective 2/27/15.]

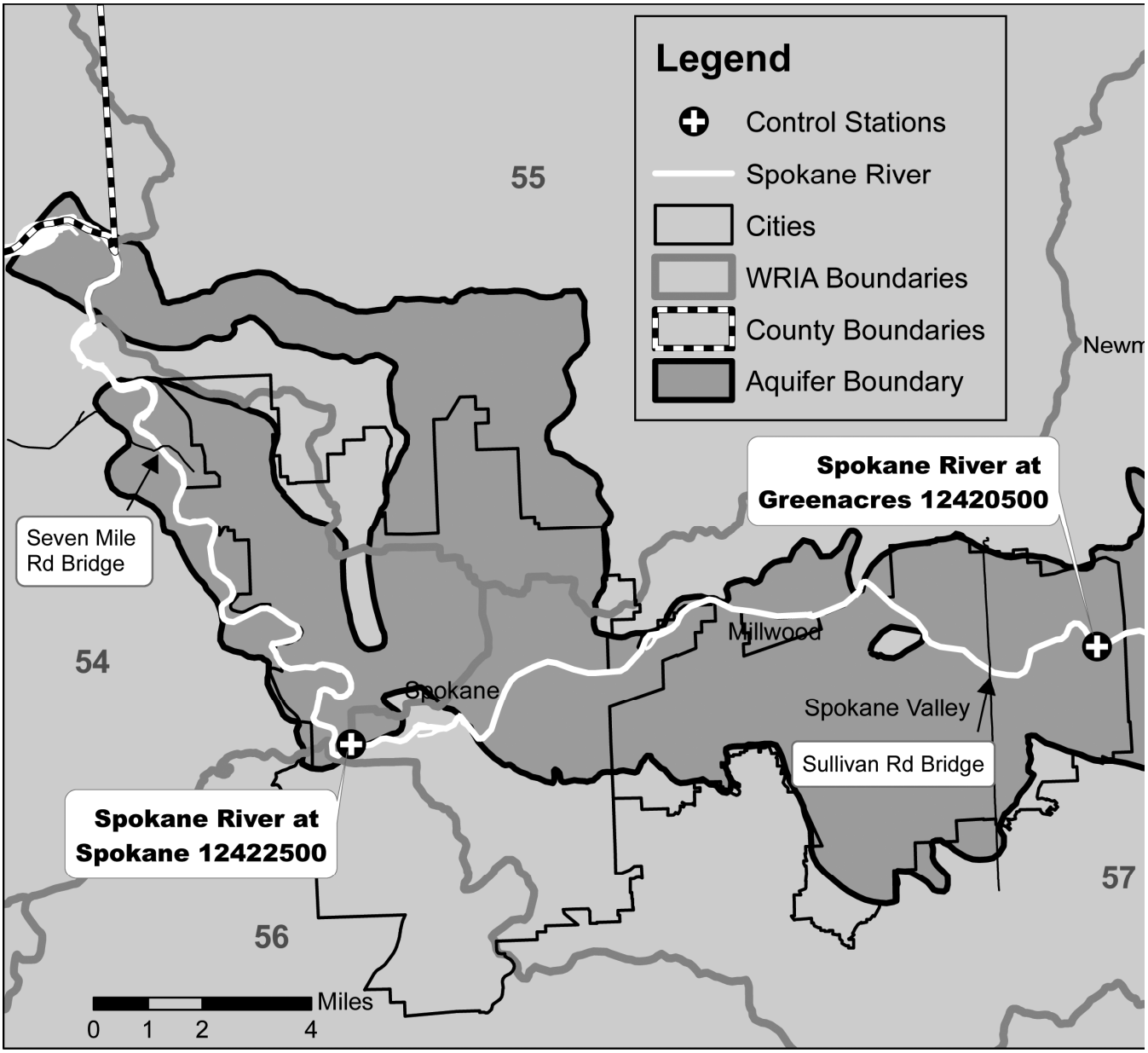
WAC 173-557-100 Regulation review. Ecology, after consultation with local, tribal, and state governments, may initiate a review, and if necessary amend this chapter, following the procedures of chapter 34.05 RCW, if: Significant new scientific information becomes available; a significant change in conditions occurs; anadromous fish are reintroduced; a large storage project is proposed in the area affected by this rule; or statutory changes are enacted, that are determined by the department to require review of this rule.

[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-100, filed 1/27/15, effective 2/27/15.]

WAC 173-557-110 Map of the rule area with control points. In administering this chapter, hydrologic evidence of the SVRP aquifer as defined in WAC 173-557-020(1) determines applicability. The map in Figure 1 of this section, generally reflects the boundary of the SVRP aquifer and is provided for informational purposes only.

Figure 1 - Spokane River and Spokane Valley Rathdrum Prairie Aquifer—

Rule Area and Control Stations



[Statutory Authority: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104, and 43.27A RCW. WSR 15-04-033 (Order 13-11), § 173-557-110, filed 1/27/15, effective 2/27/15.]