
SUBSTITUTE HOUSE BILL 1438

State of Washington 63rd Legislature 2013 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Warnick, Schmick, and Fagan)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to de facto changes in water rights for irrigation
2 purposes that involved conversion to more efficient irrigation
3 technologies; creating a new section; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The department of ecology must initiate
6 a process to enable water right holders to change the current status of
7 water rights that are currently being put to a different place of use
8 than is indicated on the associated water right certificate when that
9 change was done prior to formal approval being granted by the
10 department of ecology and only if the following conditions are met:

11 (a) The water right is located in water resource inventory area 01
12 as identified in WAC 173-500-040 as it existed on the effective date of
13 this section;

14 (b) The water right holder has implemented a change from overhead
15 irrigation technology to microirrigation technology prior to January 1,
16 2000;

17 (c) The water right holder has beneficially used the water right
18 for irrigation purposes using microirrigation technology since
19 implementing the change;

1 (d) After implementing the change, but before the effective date of
2 this section, the water right holder filed a water right change
3 application but has not yet received approval for that change from the
4 department of ecology; and

5 (e) The water right holder submits the following to the department
6 of ecology:

7 (i) Information indicating the nature and extent of the changes,
8 including the date or dates on which the actual changes in water use
9 occurred, water use before and after the changes, the points of
10 diversion or withdrawal and place of use both before and after the
11 changes, and any improvements in water use efficiency or reductions in
12 direct impact on instream resources; and

13 (ii) Payment for the appropriate fee under RCW 90.03.470(3).

14 (2) The department may accept as evidence under this section crop
15 receipts, seed receipts, harvest-related receipts, aerial and other
16 photographs showing land in agricultural production or showing
17 irrigation facilities, irrigation equipment receipts, metering records,
18 or any other form of data acceptable to the department.

19 (3)(a) If the department of ecology finds that the water right
20 holder satisfies the requirements of this section, the department shall
21 complete any analyses required by RCW 90.03.380 and amend the
22 appropriate water right certificates to reflect the current place of
23 use following the requirements of RCW 90.03.380 and the results of the
24 analysis, except that the department shall use the time period prior to
25 the implementation of the associated change to determine beneficial and
26 consumptive use of the water right.

27 (b) In updating the appropriate certificates, the department of
28 ecology must reflect on the certificate the amount of water
29 beneficially used by the applicant in the five years prior to the
30 effective date of this section.

31 (4) An applicant to participate in the process authorized by this
32 section must, if requested by the department of ecology, utilize the
33 coordinated cost-reimbursement process created under RCW 90.03.265.

34 (5) This section expires June 30, 2016.

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