

WRAC Briefing – Update to POL-1050, Extension of Time on Permits

For December 14, 2020

The Water Resources Program is revising [Policy 1050, Extension of Time on Permits](#). The policy governs how Ecology evaluates a request for an extension of time to a development phase of a water right permit.

Background

A water right permit grants the permit holder a legal authorization to put water to beneficial use. Permits are typically issued with several deadlines, documented in a development schedule. RCW 90.03.320 establishes that a permit holder may request an extension of time to their development schedule, and that Ecology shall grant the extension provided that:

- The applicant has shown good cause;
- The applicant has shown good faith in developing the project; and
- Ecology considers the public interests affected.

Policy 1050 explains how the program evaluates these requests. The policy was adopted in 1991 and last revised in 2006.

Note that development schedules and requests for extension of time for changes to water right *certificates* are governed by [POL-1280](#). Ecology is not revising POL-1280 at this time.

Objectives

In revising the policy, we intend to:

1. Clarify the criteria upon which Ecology will evaluate requests for permit extensions. This will likely include updating definitions for *good faith* and *good cause*.
2. Bring the policy in alignment with current case law.
3. Promote consistency across regions.

Policy Questions

Ecology is evaluating the entire policy for revision and therefore, all topics covered by the policy are open to evaluation and revision. That said, we have identified the following key policy questions that warrant evaluation:

1. When evaluating a request for a permit extension: If the permit holder has not demonstrated a need for the full quantity of water under their permit, should Ecology approve the extension but for a lesser quantity of water?¹

¹ For example: A development of 10 homes has a permit for 10AF of water. They have developed 8 of the 10 homes, but have only put 4AF of water to beneficial use. They apply for a permit extension to develop the remaining 2 lots. Should Ecology approve the extension for the full 10AF of water, or only enough water to build the remaining 2 lots?

2. If warranted, should Ecology approve an extension but for a shorter duration of time than was requested by the permit holder?
3. What types of conditions/provisions are appropriate for Ecology to place on a permit when we issue an extension?
4. How should Ecology evaluate numerous requests for extensions that cite repeated reasons?
5. When Ecology denies a request for a permit extension, what is the best procedure to move the water right holder towards certification of their water right?

Note – just because Ecology is asking these questions does not presuppose a certain position to how we will answer them.

Draft Timeline

Winter 2020: Internal evaluation of policy positions and drafting. Discussion with tribes and stakeholders on policy questions

Late winter/early spring: External review of the draft policy

Late spring/early summer: Finalization of the policy revision

Contact Information

Carrie Sessions, carrie.sessions@ecy.wa.gov, 360 742 6582