



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Ecology AO#11-03

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose: Creates Chapter 173-165 WAC – Certified Water Right Examiners to implement RCW 90.03.665.** The rule:

- Sets a fee schedule for CWRE-program applicants and certified water right examiners.
- Establishes a certification process.
- Describes certified water right examiner responsibilities and the rights and responsibilities of permittees.
- Creates a framework for compliance and enforcement.
- Clarifies the process related to Ecology review and decision-making related to proof reports of examination submitted by certified water right examiners.
- Includes other requirements to implement the program.

**Citation of existing rules affected by this order:**

Repealed:

Amended:

Suspended:

**Statutory authority for adoption:** RCW 90.03.665 (11), RCW 43.27A.090 (11), RCW 43.21A.064 (9)

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 12-17-110 on August 20, 2012 (date).

Describe any changes other than editing from proposed to adopted version:

Adds definitions for “applicant,” “proof examination,” “qualified water conservancy board commissioner,” and “water right certification.” Allows certified water right examiners to work with others in generating the report while clarifying that they must be responsible for the content. Addresses conflict of interest issues in the rule rather than only in the rules of professional performance. Removes requirement to submit written notice to clients and Ecology of certification expiration. Allows for non-formal training to qualify for continuing education credit. Adds notice to a certified water right examiner if under full investigation. Adds interviewing or surveying past and current CWRE clients as an informal compliance method. Stipulates that Ecology will retain a copy of a withdrawn proof report of examination and permittees must explain discrepancies between it and any later report submitted. For further detail on changes, please see the concise explanatory statement Pub # 12-11-044.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: WA Dept of Ecology

phone (360) 407-6872

Water Resources Program Publications

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Address: PO Box 47600, Olympia, WA 98504-7600

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**Date adopted:** 11/28/12

**NAME (TYPE OR PRINT)**

Ted Sturdevant

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: November 28, 2012**

**TIME: 1:24 PM**

**WSR 12-24-031**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>13</u>	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____