



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 06-05

Subject of possible rule making:

This proposed rule making would amend one section of Chapter 173-134A WAC. A formal petition for amendment rule making was received by Ecology on January 3, 2006 and amended in a letter dated January 11, 2006. Ecology has agreed to initiate rule making as petitioned. The petitioned amendments pertain to language within WAC 173-134A-080. The proposed amendments would change the following:

Current requirements	Proposed language
Only water that has been put to "beneficial use"* may be transferred as to the place of use and purpose of use.	Would allow water not yet put to beneficial use to transfer as to the place of use.
All permits are provided three years to put water to beneficial use. After three years, the unused (unperfected) water is returned to the artificially stored ground water.	Would allow flexible development schedules for all non-agricultural permits on a case-by-case basis.
None	A non-agricultural permit development schedule may be extended for good cause on a case-by case basis.

Additional amendments to chapter 173-134A WAC may be identified during a public scoping process on the rule.

Statutes authorizing the agency to adopt rules on this subject: RCW 43.21A.064(9), 43.21A.080, 90.54.040(2), and 90.44.130.

Reasons why rules on this subject may be needed and what they might accomplish:

The purpose of Chapter 173-134A WAC is to set forth rules for Ecology to administer, regulate, and manage all ground waters within the Quincy Basin (QB) Ground Water Subarea, including commingled public ground waters and artificially stored ground waters. The Department of Ecology works in cooperation with the affected entities including the Bureau of Reclamation to implement protection to the public interest and private rights

The current rule language limits the development schedule to three years and the ability to change only a water right that has been put to beneficial use for all entities. Non-agricultural entities including the business community, developers, and municipalities generally require greater flexibility in their development schedules and changing inchoate water rights, depending on the scale of the project.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The U.S. Bureau of Reclamation (Bureau) is identified as the water right holder and owner of the artificially stored ground water. Ecology plans to coordinate the rule making process with the Bureau. Ecology has and will continue to request the Bureau's response to draft rule language and its participation in the rule-making activities.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) Ecology will hold public workshops and hearings to provide information to interested parties and to receive comments on the scope of the rule making. An informational flyer will also be sent out. Information will also be posted on Ecology's web site.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Interested parties can participate in the decision to adopt amendments by contacting Janet Carlson, either by phone (509) 329-3421, by e-mail at jaca461@ecy.wa.gov, or by mail at Janet Carlson, Eastern Regional Office, Department of Ecology, N. Monroe Street, Spokane, WA 99205-1295. They may also participate in the public workshops and public hearings and provide comments to Internet postings of the proposed amendments.

DATE

4/19/2006

NAME (TYPE OR PRINT)

Ken Slattery

SIGNATURE

TITLE

Program Manager

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