



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO #09-05

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 09-16-139 _____ ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

**Title of rule and other identifying information:** (Describe Subject) Chapter 173-152 WAC, Water Rights. This rule establishes the framework under which the department can provide for the organization of its work, prioritize basins to be assessed, conduct basin assessments, prioritize investigations of water right applications by geographic areas, and establish criteria for priority processing of applications for new water rights.

### Hearing location(s):

- August 10, 2010 – Ecology Headquarters Auditorium, 300 Desmond Drive, Lacey
- August 11, 2010 – Everett Community College, Gray Wolf Hall – Rm 374, 2000 Tower Street, Everett, WA
- August 12, 2010 – Wenatchee City Hall, Community Ctr Veterans Hall, 504 S. Chelan Ave., Wenatchee, WA
- August 17, 2010 – Ecology Regional Office Spokane, 4601 N. Monroe Street, 2<sup>nd</sup> Floor Conference Room, Spokane, WA
- August 18, 2010 – Ecology Richland Office, Conference Rm 3A – River Room, 3100 Port of Benton Blvd., Richland, WA

Time: All hearings begin at 6:30 p.m.

**Date of intended adoption:** November 19, 2010

(Note: This is NOT the effective date)

### Submit written comments to:

Name: Janet L. Rajala  
 Address: Department of Ecology – Eastern Regional Office  
 4601 N. Monroe Street  
 Spokane, WA 99205-1205  
 e-mail [jaca461@ecy.wa.gov](mailto:jaca461@ecy.wa.gov)  
 fax (509) 329-3529 by 5 p.m., September 1, 2010

### Assistance for persons with disabilities: Contact

Judy Beitel by August 2, 2010

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rulemaking would amend Chapter 173-152 WAC to reflect the legislative amendments to Chapter 90.03 RCW and Chapter 90.90 RCW, Columbia River Basin Water Supply, enacted during the 2006 legislative session. The proposed language offers new language identifying how Ecology will manage water rights under Chapter 90.90 RCW. Proposed language amends priority processing described in WAC 173-152-050 to include the processing of Chapter 90.90 RCW reservoir storage applications.

**Reasons supporting proposal:** The amended rule will provide the details as to how applications under Chapter 90.90 RCW will be processed, the order in which they are processed, and the criteria used. Priority processing under the proposed WAC 173-152-050 will provide some clarity on processing applications that were acknowledged within the Supreme Court decision, in [Hillis v. Department of Ecology, 131 Wn.2d 373, 932 P.2d 139 \(1997\)](#) and clarify the changes regarding public water supply emergencies and priorities.

**Statutory authority for adoption:** RCW 43.21A.064(9) ; RCW 43.27A.090(11); Chapters 90.03, 90.44, and 90.54 RCW.

**Statute being implemented:** Chapters 90.03, 90.44, 90.54 and 90.90 RCW. [Hillis v. Department of Ecology, 131 Wn.2d 373, 932 P.2d 139 \(1997\)](#)

### Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

### DATE

7/6/10

### NAME (type or print)

Polly Zehm

### SIGNATURE

TITLE Deputy Director

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

DATE: July 07, 2010

TIME: 8:45 AM

WSR 10-14-113

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**  
NA

**Name of proponent:** (person or organization) Dept of Ecology

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Janet Rajala	Spokane	(509) 329-3421
Implementation.... Water Resources Regional Offices	Lacey, Bellevue, Yakima, Spokane	(360) 407-6300 (425) 649-7000 (509) 575-2490 (509) 329-3400
Enforcement.... Water Resources Regional Offices	Lacey, Bellevue, Yakima, Spokane	(360) 407-6300 (425) 649-7000 (509) 575-2490 (509) 329-3400

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:  
Address:

phone ( ) \_\_\_\_\_  
fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

This is not a significant legislative rule.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:

phone ( ) \_\_\_\_\_  
fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

No: Please explain: This is not a significant legislative rule.