



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Washington State Department of Ecology *AO# 08-04*

Subject of possible rule making: *fid* Delineating a water code and permit exemption storage threshold for *de minimus* rainwater harvesting and use, and specifying conditions for the permit exemption. Providing standards for regional and individual permits for rainwater harvesting projects that exceed the permit exemption threshold, and amending WAC 173-152-050 to specifically authorize priority permit processing for rainwater harvesting systems. *JH*

** CREATING A NEW SECTION(S) IN WAC 508-12*

Statutes authorizing the agency to adopt rules on this subject: RCW 90.03.010, RCW 43.21A.064 (9), RCW 43.21A.080, RCW 43.27A.020 and RCW 43.27A.090

Reasons why rules on this subject may be needed and what they might accomplish: An acceptable level of rainwater harvesting without requiring a water right has never been defined in law or rule. This lack of clarity has created a public perception that even tiny amounts of rainwater harvesting and use is subject to the water code and/or permit process. Starting in 2003 and every year thereafter the legislature has attempted to clarify this legal ambiguity. All such efforts have failed. Stormwater management is a major problem, particularly in urban settings. The legal ambiguity concerning rainwater harvesting is hindering efforts to utilize rainwater harvesting as a stormwater management tool. If Ecology does not move forward with the rule, the crippling uncertainty will remain.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: No other agencies currently regulate rainwater although other entities are interested in developing guidance. Such entities include the Department of Health, the Building Code Council, and the Plumber's Council. These entities will be invited to the stakeholder meetings that precede the open house sessions described below.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Develop rule following stakeholder meetings and public workshops. We will also look at rainwater harvesting that has been implemented in King County and San Juan County, and an Ecology rainwater harvesting website will be developed.

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

Three open house sessions will be held: Everett - June 17 (Everett Community College 6:00-9:00pm, Lacey - June 18 (Dep't of Ecology HQ 6:00-9:00pm, and Wenatchee - June 19 (Coast Wenatchee Center Hotel 6:00-9:00pm). News releases and newspaper advertisements will go out prior to public events. It is anticipated that the public hearings will follow in the same locations as the open house sessions. Prior to the open house sessions, Kurt Unger (kung461@ecy.wa.gov, 360-407-7262) will be convening 3 stakeholder meetings starting the week of May 26. Please contact Kurt if you wish to attend these meetings.

DATE
May 6, 2008

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