



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 #05-18

Subject of possible rule making: This proposed rulemaking would amend Chapter 173-153 WAC to reflect the legislative amendments to Chapter 90.80 RCW and 90.03 RCW adopted during the last two legislative sessions. It would also clarify continuing education reporting and documentation requirements for board commissioners and provide criteria for Ecology to review continuing education credit requests. Substitute House Bill 2307, Chapter 104, Session Laws of 2004, entitled Water Conservancy Board - Commissioner Eligibility, provided a definition of a "water right holder" for the purpose of determining representation requirements of board commissioners. This definition differs from the definition within the rule proposed to be amended. Engrossed Substitute Senate Bill 6125, Chapter 10, Session Laws of 2004, entitled Water Conservancy Board - Alternate, defined the position of "Alternate Commissioner" and authorized certain conditions under which an alternate may serve in the place of an absent commissioner. The adopted definition and conditions for service as a commissioner differs from that contained within the rule. Both of these bills were codified in Chapter 90.80 RCW. Engrossed Substitute House Bill 2309, Session laws of 2005, entitled Water Right Fees, was codified in RCW 90.03.470. It modified the fees associated with the examination of water right change applications and eliminated the collection of a fee to Ecology for applications filed with Water Conservancy Boards. The proposed rule amendment would eliminate the requirement that boards forward a fee to the Department and clarifies other application processing issues related to a departmental fee within the rule.

Statutes authorizing the agency to adopt rules on this subject: RCW 90.80.040 authorizes the Director to adopt rules in accordance with Chapter 34.05 RCW necessary to carry out Chapter 90.80 RCW.

Reasons why rules on this subject may be needed and what they might accomplish: The rule to be amended, Chapter 173-153 WAC, provides the procedures and practices for counties as they establish Water Conservancy Boards and appoint commissioners, for boards as they process water right change applications, and for Ecology as it provides training and assistance to boards and reviews records of decisions issued by boards. The proposed amendments reconcile the rule governing the processing of water right change applications by Water Conservancy Boards with amended statutes. The amendments would clarify continuing education reporting and documentation requirements for board commissioners and provide review criteria used by the Department in the evaluation of training credit requests from board commissioners.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
None

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

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) The proposal is to amend an existing rule. Amendments to the rule will be drafted and reviewed internally. Water Conservancy Boards will be provided the opportunity to comment on the proposed rule. At least two public hearings will be conducted. Additionally the proposed amendments will be posted on the Department website and will be provided to parties that have previously identified themselves as interested parties.

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

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Interested parties can participate in the decision to adopt amendments by contacting Janet Carlson, Water Conservancy Board Coordinator 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 hearings and provide comments to Internet postings of the proposed amendments.

DATE
12/23/05

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TITLE
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