



PREPROPOSAL STATEMENT OF INQUIRY

(RCW 34.05.310)

CR-101 (7/22/01)

Do NOT use for expedited rule making

Agency: Department of Ecology AO #02-17

Subject of possible rule making: The Washington State Department of Ecology's (Ecology) Water Resources Program (Program) is proposing to develop an Instream Resource Protection Program (IRPP) setting instream flows for certain streams and river segments and, in some cases, stream closures within the Stillaguamish River Basin. The Stillaguamish River Basin is named Water Resource Inventory Area (WRIA) 5 pursuant to chapter 173-500 Washington Administrative Code (WAC), and the proposed rule will be numbered chapter 173-505 WAC.

(a) Statutes authorizing the agency to adopt rules on this subject: RCW 43.21A.064(9), Department of Ecology; RCW 43.27A.090(11), Water Resources; Chapter 90.22 RCW, Minimum Water Flows & Levels; Chapter 90.54 RCW, Water Resources Act of 1971. Chapter 90.54 RCW provides that the quality of the natural environment shall be protected and, where possible, enhanced. In addition, perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values.

(b) Reasons why rules on this subject may be needed and what they might accomplish: The purpose of the instream flow rule for WRIA 5 is to establish a water right for instream flows to satisfy the statutory directive to protect the instream resources of fish, wildlife, water quality, navigation, recreation, scenic, aesthetic and other environmental values. Instream flow requirements will be a condition (by permit proviso) for new water right applications, or applications to change existing water rights that affect sources of water covered by the proposed rule.

(c) Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: There are no other agencies, either federal or state, with the authority to adopt instream flows in the state of Washington.

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

- Negotiated rule making
 Pilot rule making
 Agency study
 Other (describe) APA rule-making process

(e) How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication: Parties affected by the rule will be informed and involved through a variety of tools, including printed materials (such as Focus Sheets), direct mail and e-mail, the news media, one-on-one meetings, public workshops, and hearings.

If you would like to participate in the rule making activities or receive information about these activities you can:

Contact Steve Hirschey, the Ecology staff person with primary responsibility for this rule, at:

Steve Hirschey, Northwest Regional Office, 3190 160 th AVE SE Bellevue, WA, 98008-5452
425-649-7066 or shir461@ecy.wa.gov

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SIGNATURE

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TITLE

Program Manager, Water Resources Program

DATE

November 18, 2002