



PREPROPOSAL STATEMENT OF INQUIRY

(RCW 34.05.310)

CR-101 (7/22/01)

Do NOT use for expedited rule making

Agency: Department of Ecology A.O. 04-03

Subject of possible rule making: This rule making will create Chapter 173-518 WAC: Elwha Dungeness Instream Resources Protection and Watershed Management Program. The proposed rule will establish instream flows for the Dungeness River mainstem, tributaries and independent drainages, and tributaries to the Elwha River. The rule will also provide a quantity of ground water that may be available for future water use, and set up a framework to implement the water management strategies described in the Elwha Dungeness (WRIA 18) watershed plan.

(a) Statutes authorizing the agency to adopt rules on this subject: Chapter 90.82 RCW Watershed Planning; Chapter 90.54 RCW Water Resources Act of 1971; Chapter 90.22 RCW Minimum Water Flows and Levels; Chapter 90.03 RCW Water Code; Chapter 90.44 RCW Regulation of Public Ground Waters; Chapter 77.55 RCW Construction Projects in State Waters (Hydraulic Code); Chapter 18.104 Water Well Construction; Chapter 43.21A Department of Ecology; Chapter 43.21C State Environmental Policy; Chapter 90.42 RCW Water Resources Management; and Chapter 90.08 RCW Stream Patrolmen.

(b) Reasons why rules on this subject may be needed and what they might accomplish: The Elwha Dungeness Water Inventory Resource Area is one of the only designated "water-critical" watersheds in western Washington without an instream flow rule. The adoption of this rule is needed to fulfill the statutory requirements of Chapters 90.54 and 90.82 RCW; implement those obligations Ecology agreed to in the watershed plan that have to be addressed through regulations; protect instream resources and ESA-listed fish; allow Ecology to proceed with water right decisions; and provide a quantity of ground water and set up a framework in order to implement the watershed plan's management strategies.

(c) Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: No other agencies have the authority to regulate this subject. However, consultation will occur with the Washington Departments of Fish and Wildlife, Community Trade & Economic Development, Health, and Agriculture, and representatives of the Jamestown S'Klallam and Lower Elwha Klallam Tribes, as part of our outreach process.

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

- Negotiated rule making
 Pilot rule making
 Agency study

[X] Other (describe) During the rule-making process, Ecology will share draft language with the Dungeness River and Elwha Morse Management Teams; Washington Departments of Fish and Wildlife, Community Trade & Economic Development, Health, and Agriculture; the Jamestown S'Klallam and Lower Elwha Klallam Tribes; and other interested parties. Ecology will prepare press releases, focus sheets and other explanatory materials for distribution to mailing and email lists. In addition, Ecology will also create a Web page for the rule proposal, and offer workshops on the rule. Finally, Ecology will hold one or more public hearings to solicit comments on the formal rule proposal.

(e) 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, emails, fax numbers of persons to contact; describe meetings, other exchanges of information, etc.)

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DATE

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