PROPOSED RULE MAKING

Agency: Department of Ecology AO # 08-12

☐ Preproposal Statement of Inquiry was filed as WSR 08-15-021; or ☐ Expedited Rule Making--Proposed notice was filed as WSR __________; or ☐ Proposal is exempt under RCW 34.05.310(4).

Title of rule and other identifying information: Upper Kittitas Ground Water Rule, Chapter 173-539A WAC

Hearing location(s):
February 11, 2009 -- 7:00 pm
Cle Elum, WA
Walter Strom Middle School
Multi-purpose room
2694 State Route 903

February 12, 2009 -- 7:00 pm
Ellensburg, WA
Hal Holmes Center
209 Ruby Street

Date of intended adoption: March 10, 2009
(Note: This is NOT the effective date)

Submit written comments to:
Name: Melissa Downes
Address: 15 West Yakima Ave., Ste. 200
Yakima WA 98902-3452
e-mail mnih461@ecy.wa.gov
fax (509) 575-2809 by (date) February 20, 2009

Assistance for persons with disabilities: Contact Judy Beitel, (360) 407-6878 by February 2, 2009

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule establishes a partial withdrawal of ground water within a portion of WRIA 39 in Kittitas County, WA for the purpose of implementing a Memorandum of Agreement (MOA) entered into with Kittitas County on April 7, 2008. The partial withdrawal and restrictions are designed to minimize the potential for new use of water that negatively affect flows in the Yakima River and its tributaries and does this in a way that minimizes effects on economic development.

Under RCW 34.05.350 the agency for good cause finds:
- The Yakima Basin is one of the state’s most water-short areas.
- Water rights with priority dates as old as 1905 were shut off during the 2001 and 2005 droughts, including the town of Roslyn’s municipal supply.
- Water supply in the Yakima Basin is limited and over-appropriated.
- Western portions of Kittitas County are experiencing rapid growth and this growth is being largely served by exempt wells.
- Exempt wells in this area may negatively affect the flow of the Yakima River or its tributaries.

Statutory authority for adoption: RCW 90.54.050, RCW 90.03.360, Chapter 43.27A RCW, Chapter 90.44 RCW

Is rule necessary because of a:

☐ Federal Law? ☑ Yes ☐ No
☐ Federal Court Decision? ☐ Yes ☐ No
☐ State Court Decision? ☐ Yes ☐ No
If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 07, 2009
TIME: 10:56 AM
WSR 09-02-079

(COMPLETE REVERSE SIDE)
Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Department of Ecology

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drafting</td>
<td>Tom Tebb</td>
<td>Central Regional Office</td>
</tr>
<tr>
<td>Implementation</td>
<td>Melissa Downes</td>
<td>Central Regional Office</td>
</tr>
<tr>
<td>Enforcement</td>
<td>Melissa Downes</td>
<td>Central Regional Office</td>
</tr>
</tbody>
</table>

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 viewing the Web site at: http://www.ecy.wa.gov/programs/wr/cro/kittitas_wp.html, or contacting:

Name: Lanessa Inman
Address: Water Resources Program
PO Box 47600
Olympia, WA 98504-7600
phone (360) 407-6862
fax (360) 407-6574
e-mail linm461@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☑ Yes  A preliminary cost-benefit analysis may be obtained by viewing the Web site at: http://www.ecy.wa.gov/programs/wr/cro/kittitas_wp.html, or contacting:

Name: Lanessa Inman
Address: Water Resources Program
PO Box 47600
Olympia, WA 98504-7600
phone (360) 407-6862
fax (360) 407-6574
e-mail linm461@ecy.wa.gov

☐ No: Please explain: