RULE-MAKING ORDER

CR-103E (July 2009)
(Implements RCW 34.05.360)

Agency: Dept. of Ecology  AO# 09-07

Effective date of rule:

Emergency Rules
☒ Immediately upon filing.
☐ Later (specify) ________________

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes  ☒ No  If Yes, explain:

Purpose: This fourth Emergency Rule establishes a partial withdrawal of ground water within a portion of WRIA 39 in Kittitas County, WA. The partial withdrawal and restrictions are designed to prevent new uses of water that negatively affect flows in the Yakima River and its tributaries. The withdrawal allows for continued development using the ground water exemption or new permits when the new consumptive use is mitigated by one or more pre-1905 water rights held by Ecology in the trust water right program of equal or greater consumptive quantity.

Citation of existing rules affected by this order:

Repealed: N/A
Amended: N/A
Suspended: N/A

Statutory authority for adoption: RCW 90.54.050

Other authority: Chapter 43.27A RCW

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:

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, and during 2004 when USBR prorated May 10, 1905 water rights. The town of Roslyn’s municipal supply and another 133 single domestic, group domestic, and municipal water systems throughout the basin are subject to curtailment when USBR prorates the May 10, 1905 water rights. 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.

Date adopted: 7/16/09

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 16, 2009
TIME: 8:31 AM
WSR 09-15-107

(COMPLETE REVERSE SIDE)
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