RULE-MAKING ORDER

Agency: Dept. of Ecology AO# 09-10

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 sixth Emergency Rule establishes a partial withdrawal of groundwater 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 groundwater 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. Withdrawals of groundwater for structures for which building permit applications were vested prior to July 16, 2009 shall be allowed but shall be subject to curtailment. This emergency rule supersedes the one filed on July 16, 2009, WSR 09-15-107.

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Repealed: N/A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: 11/25/09

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: November 25, 2009
TIME: 12:41 PM

WSR 09-24-068

(COMPLETE REVERSE SIDE)
Note: If any category is left blank, it will be calculated as zero.
No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

- **Federal statute:**
  - New: ___
  - Amended: ___
  - Repealed: ___

- **Federal rules or standards:**
  - New: ___
  - Amended: ___
  - Repealed: ___

- **Recently enacted state statutes:**
  - New: ___
  - Amended: ___
  - Repealed: ___

The number of sections adopted at the request of a nongovernmental entity:

- New: 12
- Amended: ___
- Repealed: ___

The number of sections adopted in the agency's own initiative:

- New: ___
- Amended: ___
- Repealed: ___

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

- New: ___
- Amended: ___
- Repealed: ___

The number of sections adopted using:

- **Negotiated rule making:**
  - New: ___
  - Amended: ___
  - Repealed: ___

- **Pilot rule making:**
  - New: ___
  - Amended: ___
  - Repealed: ___

- **Other alternative rule making:**
  - New: ___
  - Amended: ___
  - Repealed: ___