



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05:310)
Do NOT use for expedited rule making

Agency: Department of Ecology *Ad# 07-06*

Subject of possible rule making:
This rule will amend Chapter 173-545 WAC, "Instream resources protection program – Wenatchee River basin, water resource inventory area (WRIA) 45." The proposed rule amendment will address revised instream flows and tools for managing water in the Wenatchee basin.

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; and Chapter 90.44 RCW, Regulation of Public Ground Waters.

Reasons why rules on this subject may be needed and what they might accomplish:
Chapter 90.82 RCW allows local planning units, of which Ecology is an active partner, to develop and recommend instream flows. RCW 90.82.130(4) states when a watershed plan is approved by the planning unit and the county legislative authority Ecology, as a participating member of the planning unit, is obligated to use the plan for making future water resource decision within WRIA 45.

During the watershed planning process for WRIA 45 the current management flows in the 1983 Flow Rule (current 173-545 WAC) was assessed and it was determined that changes should be made to better meet the needs of aquatic species and humans in WRIA 45. The *Wenatchee River Watershed Plan* (April 2006) recommends a new water resource management strategy, including the management flows (revised instream flows) at specified control points, a reservation of water for future uses, and maximum allocations instream flow recommendations for the Wenatchee River and its tributaries.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
Ecology has exclusive statutory authority under Chapter 90.22 RCW to establish minimum instream water flows. Consultation will occur with the Washington State Department of Fish and Wildlife, the Washington State Department of Health and the Yakama Nation. These agencies will continue to work with the Department of Ecology as part of the WRIA 45 watershed planning unit throughout the rule-making process.

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

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

The new rule will be based on the proposal developed in the WRIA 45 watershed plan. Ecology will hold at least one open house prior to filing the CR-102 and proposed rule language. A focus sheet, web page, and public notice will be developed to explain the elements of the proposed rule and announce the date(s) of the open house(s). A press release, mailing and email will be used to distribute the information. At the open house(s), staff will be available to discuss the proposal and answer questions. Informational displays and handouts will also be available.

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, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

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DATE *March 5, 2007*

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