



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 07-06

- Preproposal Statement of Inquiry was filed as WSR 07-06-076 ; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information: (Describe Subject)**

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.

**Hearing location(s):**

Leavenworth City Hall  
700 Highway 2  
Leavenworth, WA

**Submit written comments to:**

Department of Ecology Water Resources webpage at  
<http://www.ecy.wa.gov/programs/wr/instream-flows/wenatchee.html>  
Name: David Holland  
Address: 15 W. Yakima Ave., Ste 200  
Yakima, WA 98902  
e-mail [dholl461@ecy.wa.gov](mailto:dholl461@ecy.wa.gov)  
fax (509) 575-2809 by August 24, 2007

Date: August 7, 2007 Time: 7:00 p.m.

Assistance for persons with disabilities: Contact Judy Beitel  
by July 27, 2007

Date of intended adoption: October 1, 2007

(Note: This is NOT the effective date)

TTY (877) 833-6341 or (360) 407-6878

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

In order to better manage water resources in WRIA 45, the Wenatchee Watershed Planning Unit recommended that Ecology adopt, in rule, a new water resource management strategy that includes:

- Increased management flows (minimum instream flows) at existing control points.
- Minimum instream flows set at new instream flow control points in the upper watershed.
- A water reservation to provide a reliable water supply for the 20-year projected population growth.
- A maximum allocation for seasonal use and storage.

Generally, the revised management flows are higher than previous management flows and more protective of habitat. This makes water unavailable for future uses during low flow portions of the year (August through October). To provide a reliable, year-round supply of water for future uses, it is necessary to reserve water that would not be subject to curtailment when the proposed minimum instream flows are not met. To do this, RCW 90.54.020(3)(a) requires that Ecology determine that the Overriding Consideration of the Public Interest (OCPI) would be served by the proposed reservation.

**Reasons supporting proposal:** During the watershed planning process for WRIA 45, the current instream 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. The recommended instream flows were developed by the local planning unit, of which Ecology is an active partner, as allowed by Chapter 90.82 RCW. 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.

**Statutory authority for adoption:** Chapters 90.82 RCW, 90.54 RCW, 90.22 RCW, 90.03 RCW, 90.44 RCW,

**Statute being implemented:** Chapters 90.03, 90.44, 90.54 and 90.82 RCW

**Is rule necessary because of a:**

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

DATE 7/3/07

NAME (type or print) Polly Zehm  
SIGNATURE

TITLE  
Deputy Director Department of Ecology

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JUL 3 2007

TIME 3:59 AM/PM PM

OR 07-14-140

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:  
NA

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

- Private  
 Public  
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Robert Barwin/David Holland	Central Regional Office, Department of Ecology	(509) 457-7140 (509) 457-7112
Implementation.... Thomas Tebb	Central Regional Office, Department of Ecology	(509) 574- 3989
Enforcement..... Thomas Tebb	Central Regional Office, Department of Ecology	(509) 574- 3989)

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 contacting:  
Department of Ecology Water Resources webpage at  
<http://www.ecy.wa.gov/programs/wr/instream-flows/wenatchee.html>

or:

Name: Lanessa Inman  
Address: Department of Ecology  
300 Desmond Dr. SE  
Lacey, WA 98504

phone (360) 407-6862  
fax (360) 407-7162  
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 contacting:

Department of Ecology Water Resources webpage at  
<http://www.ecy.wa.gov/programs/wr/instream-flows/wenatchee.html>

or:

Name: Lanessa Inman  
Address: Department of Ecology  
300 Desmond Dr. SE  
Lacey, WA

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No: Please explain: