



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: February 04, 2021

TIME: 11:44 AM

WSR 21-05-007

Agency: Department of Ecology AO #20-03

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR \_\_\_\_\_ ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject)

Ecology is proposing to repeal the entire Chapter 173-04 WAC – Practice and Procedure.

For more information on this rulemaking visit: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-04>

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 24, 2021	10:00am	Online: <a href="https://watech.webex.com/watech/onstage/g.php?MTID=edc32f29ae7160f6b737dff57a6ccc84f">https://watech.webex.com/watech/onstage/g.php?MTID=edc32f29ae7160f6b737dff57a6ccc84f</a>	<p>Presentation, question and answer session followed by the hearing.</p> <p>We are holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.</p> <p>To receive a call back, provide your phone number when you the access code.</p> <p>US Toll</p> <p>+1-415-655-0001</p> <p><a href="#">Show all global call-in numbers</a></p> <p>Access code: 177 853 7341</p>

Date of intended adoption: April 9, 2021 (Note: This is NOT the effective date)

### Submit written comments to:

Name: Laura Ballard

Address: Send US mail at:  
Department of Ecology  
Governmental Relations  
PO Box 47600, Olympia, WA 98504-7600 (US mail).

Or,  
Send parcel delivery services to:  
Department of Ecology  
Governmental Relations  
300 Desmond Dr. SE, Lacey, WA 98503

Email: Submit comments by mail, online, or at the hearing(s).

Fax: N/A

Other: Online: <http://admin.ecology.commentinput.com/?id=C4Ggk>

By (date) April 6, 2021

**Assistance for persons with disabilities:**

Contact Ecology ADA Coordinator

Phone: 360-407-6831

Fax: N/A

TTY: For Washinton Relay Service or TTY call 711 or 877-833-6341.

Email: [ecyADAACoordinator@ecy.wa.gov](mailto:ecyADAACoordinator@ecy.wa.gov)

Other: Visit <https://ecology.wa.gov/accessibility> for more information.

By (date) March 17, 2021

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Ecology is proposing to repeal the entire chapter 173-04 WAC, as it is obsolete and no longer useful to implement practices or procedures as the subject is currently governed by other laws and rule. Ecology regularly does reviews of existing rules to examine their content for accuracy. Review of chapter 173-04 WAC – Practice and Procedure indicated that it was no longer needed, as more contemporary rules and laws have replaced this chapter.

**Reasons supporting proposal:** See answer to “Purpose of the proposal...”

**Statutory authority for adoption:** Department of Ecology RCW 43.21A.080 – Rule-making authority.

Statute being implemented: Department of Ecology RCW 43.21A.081 – Five-year formal review process of existing rules.

**Is rule necessary because of a:**

Federal Law?

Yes  No

Federal Court Decision?

Yes  No

State Court Decision?

Yes  No

If yes, CITATION:

**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

Private

Public

Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Laura Ballard	Lacey, WA	360-407-6712
Implementation:	N/A	N/A	N/A
Enforcement:	N/A	N/A	N/A

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name: N/A

Address: N/A

Phone: N/A

Fax: N/A  
TTY: N/A  
Email: N/A  
Other: N/A

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: N/A  
Address: N/A  
Phone: N/A  
Fax: N/A  
TTY: N/A  
Email: N/A  
Other: N/A

No: Please explain: Cost-benefit analysis is not necessary because this rulemaking repeals a "procedural rule" that relates to agency hearings and internal governmental operations. (RCW 34.05.328 (5) (i) A; RCW 34.05 328 (5) (ii)).

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)                | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)   |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language)               | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: N/A  
Address: N/A  
Phone: N/A  
Fax: N/A  
TTY: N/A.

Email: N/A  
Other: N/A

**Date:** 2/4/2021

**Name:** Heather Bartlett

**Title:** Deputy Director

**Signature:**

A handwritten signature in black ink that reads "Heather Bartlett". The signature is written in a cursive style with a large, stylized initial 'H' and 'B'.