



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Department of Ecology AO # 13-11

Subject of possible rule making: This rule making will propose a new rule, Chapter 173-557 WAC - Water Resource Management Program for the Spokane River and Spokane Valley Rathdrum Prairie (SVRP) Aquifer. The proposed rule will set instream flow levels for the Spokane River, and establish regulations for managing future out-of-stream uses of water from the Spokane River and SVRP Aquifer. An amendment to Chapter 173-555 WAC – Water Resources Program in the Little Spokane River Basin, WRIA 55, may be proposed, if necessary, solely for the purpose of ensuring regulatory clarity since the geographic areas of applicability of these rules will partially overlap.

Statutes authorizing the agency to adopt rules on this subject: Chapter 90.22 RCW, Minimum Water Flows and Levels; Chapter 90.82 RCW, Watershed Planning; Chapter 90.54 RCW, Water Resources Act of 1971; Chapter 90.03 RCW, Water Code; Chapter 90.44 RCW, Regulation of Public Groundwaters; Chapter 18.104 RCW, Water Well Construction.

Reasons why rules on this subject may be needed and what they might accomplish: The possible adoption of this rule is needed to protect and preserve instream resources in the Spokane River including fish, wildlife, recreation, water quality, navigation and aesthetics. The established instream flow levels will serve to determine whether additional water is available for future allocation beyond the needs of existing water rights and will assist Ecology with managing future water withdrawals from the Spokane River and Spokane Valley Rathdrum Prairie Aquifer. A rule will also establish Washington State legal interests in the water as it may relate to any future adjudications or interstate apportionment.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
See attachment A

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) – The process for developing the new rule will build on the watershed planning processes for Water Resource Inventory Areas (WRIAs) 55/57 and 54, and other existing processes for the management of water resources in the region, including water quality permitting, water resource studies, and hydropower dam relicensing. Draft rule language will be shared with watershed planning units, Washington Department of Fish and Wildlife (WDFW), Tribes, the City of Spokane, regional water purveyors, the State of Idaho, and other interested parties. Ecology will hold an 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 of the open house. A press release and email will be used to distribute the information. At the open house staff will be available to explain the proposal and answer questions.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

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 Shorelands and Environmental Assistance Program
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Or Ann Wessel – Rule writer
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For the latest updates on this rulemaking sign up for the Department of Ecology Spokane River water resources rule email list and see the webpage at <http://www.ecy.wa.gov/programs/wr/rules/557-ov.html>

DATE
1/21/2014

NAME (TYPE OR PRINT)
Thomas Loranger

SIGNATURE

TITLE
Water Resources Program Manager

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
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Attachment A: 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 RCW 90.03.247 and Chapter 90.22 RCW to establish minimum instream flows. In establishing instream flows, RCW 90.03.247 directs Ecology to “consult with, and carefully consider the recommendations of, the department of fish and wildlife, the department of community trade and economic development (now commerce), the department of agriculture, and representatives of the affected Indian tribes.” RCW 90.22.020 directs Ecology to serve notice of the public hearing upon the administrators of the departments of social and health services, natural resources, fish and wildlife and transportation. RCW 90.82.080 directs Ecology to engage in government to government consultation with affected tribes in the management area. Consultation will occur with the Washington Department of Fish and Wildlife (WDFW), and affected Tribes. We will also coordinate with appropriate federal agencies and other state agencies.