



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Department of Ecology AO #16-13

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 17-02-010 ; or | <input checked="" type="checkbox"/> Original Notice       |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or          | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).                  | <input type="checkbox"/> Continuance of WSR _____         |

**Title of rule and other identifying information:** Chapter 173-321 WAC - *Public Participation Grants (PPG)*.

The rule establishes eligibility requirements and funding criteria for grants authorized by Chapter 70.105D RCW, Model Toxics Control Act.

**Hearing location:** Lacey, WA  
Department of Ecology  
300 Desmond Dr.  
Lacey, WA 98503  
ROA-32

**Submit written comments to:**

**Name:** Lynn Gooding  
**Mail:** Department of Ecology  
Waste 2 Resources Program  
PO Box 47600  
Olympia, WA 98504-7600

**In Person:**  
Department of Ecology  
Waste 2 Resources Program  
300 Desmond Dr.  
Lacey, WA 98503

**Online at:** <http://wt.ecology.commentinput.com/?id=rt46y>  
by May 22, 2017.

**Date:** May 15, 2017 **Time:** 1:30 PM

**Assistance for persons with disabilities:** Contact

**Date of intended adoption:** June 28, 2017  
(Note: This is **NOT** the effective date)

Waste 2 Resources Program Reception at 360-407-6900 by May 11, 2017

TTY (888) 833-6341 or (711) Relay Service

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

**Reasons supporting proposal:** See "Purpose of the proposal" in Attachment A.

**Statutory authority for adoption:** Chapter 70.105D RCW, Model Toxics Control Act, including RCW 70.105D.070 funding the public participation grants program, and RCW 70.105D.070 (8) authorizing the department to adopt rules for grant issuance and performance.

**Statute being implemented:** Chapter 70.105D RCW, Model Toxics Control Act

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** April 05, 2017

**TIME:** 9:24 AM

**WSR 17-08-094**

**DATE**

April 4, 2017

**NAME**

Polly Zehm

**SIGNATURE**

**TITLE**

Deputy Director

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

N/A

**Name of proponent:** Washington State Department of Ecology

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Lynn Gooding	Ecology Headquarters, Lacey	(360) 407-6062
Implementation.... Lynn Gooding	Ecology Headquarters, Lacey	(360) 407-6062
Enforcement.....Lynn Gooding	Ecology Headquarters, Lacey	(360) 407-6062

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

- Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.  
 No. Explain why no statement was prepared.

Ecology has analyzed the compliance costs of this rulemaking in previous chapters of this document. Based on this analysis we determine the proposed rule does not impose more than minor costs on businesses in an industry, as the proposed rule amendments are not likely to impose any additional costs on businesses. Therefore, we are not required to prepare a small business economic impact statement (RCW 19.85.030(1)(a)).

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

- Yes A preliminary cost-benefit analysis may be obtained by contacting:  
Name: Kirsten Miller  
Address: Washington State Department of Ecology  
Waste 2 Resources Program  
PO Box 47600  
Lacey, WA 98504-7600  
phone (360) 407-6707  
fax (360)407-6102  
e-mail kirsten.miller@ecy.wa.gov

- No: Please explain:

**Attachment A: Chapter 173-321 WAC, Public Participation Grants**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** In 2016, Ecology obtained an independent audit of our Public Participation Grants program. Changes are either specific audit recommendations or the program's recommendations based on experience. Updating the rule now will allow us to apply these changes to grants in the 2017-19 biennium.

As directed under Chapter 70.105D RCW, Ecology has the authority to administer a program for grants to "persons who may be adversely affected by a release or threatened release of a hazardous substance and not-for-profit public interest groups". Grants are used to "facilitate public participation in the investigation and remediation of a release or threatened release of a hazardous substance and to implement the state's solid and hazardous waste management priorities."

The rule currently limits applicants to "groups of three or more unrelated persons or not-for-profit public interest groups". The proposed rule language removes the "three or more" requirement and allows "*individuals* adversely affected by a release or threatened release" to apply for a grant. Not-for-profit public interest groups are still eligible.

Chapter 173-321 WAC directs that priority consideration for grant funding will be given to: (1) applicants requesting a hazardous substance release grant; (2) new applicants; and (3) applicants that demonstrate the ability to provide accurate technical information on complex waste management issues.

Proposed changes include amending "new applicants" to applicants who "have not received funding in the last two biennia". This doesn't change the intent of this priority which was to encourage new grant recipients. Another proposed change is to eliminate (3) and replace it with applicants who "facilitate public participation in highly impacted or low-income communities". This change acknowledges Ecology's commitment to prioritize environmental justice concerns in the program.

The current rule excludes federally recognized tribes from eligibility, but grants have been awarded in the past to their not-for-profit organizations. The proposed rule language allows for tribal not-for-profit organizations to apply for grants.

Organizations "sustained by public funding" are currently excluded in the rule. Since local, state, and federal governments have their own specific exclusions, it is unclear what organizations are covered here. This exclusion has been removed from the proposed rule.

Public participation grants may be funded up to \$60,000 per year and renewed annually. The current rule requires that a new application be submitted to renew a grant. Proposed rule changes eliminate the requirement to submit a new application.

Additionally, proposed changes include, but are not limited to, the application evaluation criteria, eligible costs, and agency reporting requirements.