



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# 10-16

Subject of possible rule making: The Department of Ecology (Ecology) will amend Chapter 508-14 WAC, Columbia Basin Project – Ground Waters. Chapter 508-14 WAC was initially adopted in 1969 and amended in 1988. The current rule describes Ecology’s permitting process for commingled natural and artificially stored groundwater beneath the Columbia Basin Project, excluding the areas covered by the Quincy ground water management subarea and zones (Chapters 173-124 and 173-134A WAC) and the Odessa ground water management subarea (Chapters 173-128A and 173-130A WAC). The rule authorizes Ecology to issue permits in the area covered by the rule (parts of Adams, Grant, and Franklin counties) based on a tentative determination that water is available, but provides that Ecology shall not issue certificates until the amounts of natural and artificially stored groundwater are determined. This provides uncertainty to existing permit holders and pending applicants.

The proposed rule making would accomplish the following:

- Clarify the amount of natural and artificially stored groundwater.
- Clarify the permitting approach for new applicants seeking to access naturally-stored groundwater.
- Clarify the permitting approach for new applicants seeking to access artificially-stored groundwater.
- Clarify the conditions under which existing permittees will receive certificates for either naturally or artificially-stored groundwater.
- Additional amendments may be identified in the rule-development process.

Statutes authorizing the agency to adopt rules on this subject: RCW 43.21A.064(9), 43.21A.080, 43.27A.090(11), 90.54.040(2) and 90.44.130.

Reasons why rules on this subject may be needed and what they might accomplish:

The existing rule provides regulatory uncertainty for holders of and applicants seeking groundwater within the Columbia Basin Project that are not covered under the more explicit Quincy and Odessa rules. This uncertainty creates a financial burden as permit holders and applicants cannot predict their long-term access to water for their projects. The proposed rule making would resolve the uncertainty by creating the same clarity in source availability as exists in other areas of the Columbia Basin Project.

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

The United States Bureau of Reclamation (Reclamation) may be identified as the water right holder and owner of the artificially stored groundwater. Ecology plans to coordinate the rule-making process with Reclamation. Ecology has and will continue to request Reclamation’s response to draft rule language and its participation in rule-making activities.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) This is an amendment to Chapter 508-14 WAC, Columbia Basin Project—Ground Waters. We plan to

actively seek public input on the proposed rule amended language. The process includes open house sessions that will be held statewide before the proposed rule amendment is filed with the Office of the Code Reviser. After filing, public hearings will also be held to gather input on specific rule language. Ecology plans to involve local interest groups with one-on-one meetings and use paid advertisements to notify the public. Ecology will use all these public activities to clearly explain the updated rule and amended sections to interested parties.

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

Contact Carolyn Comeau, Dept. of Ecology, 15 West Yakima Avenue, Suite 200, Yakima WA 98902-3452; phone (509) 454-7894; email; Carolyn.Comeau@ecy.wa.gov

DATE November 15, 2010

NAME (TYPE OR PRINT) Derek I. Sandison

SIGNATURE

TITLE
Director, Office of Columbia River

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