



PREPROPOSAL STATEMENT OF INQUIRY

(RCW 34.05.310)

CR-101 (7/22/01)

Do NOT use for expedited rule making

Agency: Department of Ecology A.O. 05-02

Subject of possible rule making: This rulemaking will establish chapter 173-503a WAC – Samish River Sub-basin Instream Resources Protection Program, Lower and Upper Skagit Water Resources Inventory Area (WRIAs 3 and 4), to include new rule language that will set instream flows and may include tools for managing water in the Samish Sub-basin.

(a) Statutes authorizing the agency to adopt rules on this subject: Chapter 90.82 RCW, Watershed Planning; Chapter 90.54 RCW, Water Resources Act of 1971; Chapter 90.22 RCW, Minimum Water Flows and Levels; Chapter 90.03 RCW, Water Code; Chapter 90.44 RCW, Regulation of Public Ground Waters, and Chapter 77.55 RCW Construction Projects in State Waters (Hydraulic Code).

(b) Reasons why rules on this subject may be needed and what they might accomplish: The possible adoption of this rule is needed to protect instream values within the Samish Sub-basin of Water Resources Inventory Area 3, including ESA listed fish (Chinook are Threatened; Coho are candidate).

(c) 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 Chapter 90.22 RCW to establish minimum instream water flows. Consultation will occur with the Washington Department of Fish and Wildlife, and Tribes. 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, the department of agriculture, and representatives of the affected Indian tribes”. We will also coordinate with the appropriate federal agencies.

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

- Negotiated rule making
 Pilot rule making
 Agency study

[X] Other (describe) During rulemaking, draft language will be shared with the local Watershed Planning Unit, if they convene; WA Departments of Fish and Wildlife, Community, Trade & Economic Development, and Agriculture; Tribes; and other interested parties. A focus sheet will be written and distributed to mailing lists and email lists. A public hearing will be held to solicit comments from interested parties.

(e) 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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For the latest updates on Water Resources issues, including the Samish Basin rulemaking, sign up for the Department of Ecology Water Resources email list: http://listserv.wa.gov/archives/water-resources.html or check the Water Resources website at: http://www.ecy.wa.gov/programs/wr/wrhome.html

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NAME (TYPE OR PRINT)

Joe Stohr

SIGNATURE

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TITLE

Water Resources Program Manager

DATE

2/15/05