



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 #15-12

Subject of possible rule making: This rulemaking will amend Chapter 173-333 Washington Administrative Code (WAC) Chemical Action Plans [proposed title change from Persistent Bioaccumulative Toxins]. This rule identifies the persistent, bioaccumulative, and toxic (PBT) criteria used to identify a chemical as a PBT, provides a list of chemicals appropriate for Chemical Action Plan (CAPs) development, identifies the CAP development process, and details the CAP contents.

Statutes authorizing the agency to adopt rules on this subject: Chapter 70.105 RCW

Reasons why rules on this subject may be needed and what they might accomplish: Updating the chemical list and streamlining the CAP process will allow Ecology to focus limited resources on the chemicals of most concern. During this update we will evaluate the opportunity to provide consistency by aligning chemical criteria with other jurisdictions, such as the European Union. PBTs and other chemicals have been linked to a wide range of toxic effects in fish, wildlife, and humans, including effects on the nervous system, reproductive and developmental problems, immune-response suppression, cancer, and endocrine disruption. Reducing or eliminating these chemicals will protect human health and the environment. The rule update will incorporate recent scientific information relating to chemicals appropriate for CAP development. The rule update will consider improvements to the CAP development process based on our experiences from the completion of five previous CAPs.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The U.S. Environmental Protection Agency regulations (including the Toxic Substance Control Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Resource Conservation and Recovery Act) regulate hazardous chemicals, which include some PBTs. Several Ecology regulations, including the Children's Safe Product Act Rule (Chapter 173-334 WAC), Dangerous Waste Regulations (Chapter 173-303 WAC), and Pollution Prevention Plans (Chapter 173-307 WAC) identify and list specific chemicals. These regulations require chemical reporting, monitoring, permitting or management by regulated entities. Although this rule identifies a list of chemicals, it does not require these activities. Changes to the rule will be coordinated with these regulations to avoid conflicts. Ecology will consult with the Department of Health and encourage local, state, and federal government agencies to provide input in the development of rule language.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other: Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (Chapter 34.05 RCW).

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

See Attachment A

Contact Information:

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How to sign up for the listserv.

Interested parties can join the CAP Rule listserv: <http://listserv.wa.gov/cgi-bin/wa?A0=CHEMICAL-ACTION-PLAN-RULE>

DATE

October 12, 2015

NAME (TYPE OR PRINT)

Carol P. Kraege

SIGNATURE

TITLE

Section Manager, Reducing Toxic Threats, Department of Ecology

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

Ecology developed five CAPs since 2003 and convened an advisory committee for each one. Members of those CAP advisory committees will be informed of this rulemaking and are invited to sign up on the CAP Rule listserv.

Ecology will use a website, listserv and other social media to inform interested stakeholders of rulemaking activities. At the announcement phase, we will invite a wide audience, including existing listserv audiences (e.g., Dangerous Waste Rules listserv) to join the listserv specific to this rulemaking. We will also invite members of the current PFAS CAP advisory committee to join the listserv.

During the CR101 process Ecology will send a survey (or surveys) to interested stakeholders to solicit input on proposed approaches and rule amendments. The preliminary draft rule language will be influenced by the responses to this outreach.