



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Ecology AO # 13-11

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

The adoption of this new water resources management rule, Chapter 173-557 WAC – Water Resources Management Program for the Spokane River and Spokane Valley Rathdrum Prairie (SVRP) Aquifer, is needed to protect instream values within the Spokane River, avoid injury to existing water rights from future appropriations of water, help achieve water resource management objectives of Spokane area watershed plans adopted under RCW 90.82, and establish and protect Washington State interests in the water resources of the Spokane River. This rule sets instream flows, and requires that new uses of water be interrupted when instream flows are not met, unless impacts to surface water are mitigated. This rule helps the Washington State Department of Ecology meet statutory obligations to manage waters for public use and for the protection of instream flows.

The amendment to WAC 173-555-010 is needed to clarify the application of Chapter 173-555 WAC in the area where the new rule (Chapter 173-557 WAC) will overlap with the existing rule (Chapter 173-555 WAC – Water Resources Program in the Little Spokane River Basin, WRIA 55).

Citation of existing rules affected by this order:

Repealed: NA
Amended: WAC 173-555-010
Suspended: NA

Statutory authority for adoption: Chapters 90.54, 90.22, 90.82, 90.03, 90.44, 18.104 and 43.27A RCW

Other authority : N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-19-114 on September 17, 2014.

Describe any changes other than editing from proposed to adopted version: See Attachment A: Differences between the proposed and final rule and rule amendment

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted:

1/27/2015

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Maia D. Bellon

SIGNATURE

TITLE

Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 27, 2015

TIME: 11:39 AM

WSR 15-04-033

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>11</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>11</u>	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>3</u>	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Attachment A: Differences between the Proposed and Final Rule and Rule Amendment

There are a number of changes from the proposed rule and amendment published with the CR-102 and the rule and amendment adopted and published with the CR-103. The changes were made in response to comments. All changes made are for rule clarity to more precisely identify the rule requirements. The changes made do not change the substance or the intent of the rule as proposed.

WAC 173-557-020(2) - The word “direct” was deleted from the phrase “direct hydraulic continuity.” The phrase “direct hydraulic continuity” is not defined in the rule and the distinction between direct vs. indirect hydraulic continuity is imprecise. This change was made in response to a comment.

WAC 173-557-020(2)(a) and amendment to WAC 173-555-010 – Language was added to clarify the application of the new rule and the existing rule, WAC 173-555, in the area where the new and existing rules overlap. The phrase “that is not part of the SVRP aquifer” was added to both the new rule and the amendment to clarify new uses regulated under the existing rule for the Little Spokane River, WAC 173-555. This clarifying language was added in response to a comment.

WAC 173-557-060(3) - The phrase “in a timely and reasonable manner” was added to clarify availability of water from a municipal water supplier. This clarifying language was added in response to a comment.