



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 # 16-04

Subject of possible rule making: The Department of Ecology's Water Quality Program (Ecology) is proposing to amend Chapter 173-98 WAC, Uses and Limitations of the Water Pollution Control Revolving Fund (CWSRF) and Chapter 173-95A WAC, Uses and Limitations of the Centennial Clean Water Program (Centennial).

Statutes authorizing the agency to adopt rules on this subject: Ecology is authorized to adopt Chapter 173-98 WAC by Chapter 90.50A RCW, Water Pollution Control Facilities-- Federal Capitalization Grants. Ecology is authorized to adopt Chapter 173-95A WAC by Chapter 70.146 RCW, Water Pollution Control Facilities Financing.

Reasons why rules on this subject may be needed and what they might accomplish: Since rulemaking in 2011, external stakeholders and Ecology have identified several issues related to the lack of clarity and lack of flexibility in the rules. In addition, in 2014 the federal Clean Water Act was amended to allow states to offer loan terms of up to 30 years and to provide loans to acquire land for constructing treatment facilities. And, in 2016, Chapter 90.50A RCW was amended to allow Ecology to offer loan terms of up to 30 years. The extended loan terms and land acquisition amendments would provide new funding opportunities if the rules are revised. With this rulemaking, we plan to:

- Address "housekeeping" issues.
- Provide more clarity.
- Provide more flexibility.
- Take advantage of new funding opportunities consistent with state and federal updates.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: Ecology is solely responsible for implementing the rules in Washington State. The U.S. Environmental Protection Agency (EPA), through the federal Clean Water Act established baseline rules for the CWSRF. EPA and Ecology have signed an "Operating Agreement" that specifies Ecology's requirements for implementing the CWSRF. Thus, it's essential that Ecology coordinate with EPA during rulemaking. There are two EPA representatives on the Financial Assistance Council that will be reviewing and commenting on draft rule language.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) 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:

Interested parties can stay informed about the rulemaking and public involvement opportunities by:

1. Visiting the Chapter 173-98 WAC (CWSRF) and Chapter 173-95A WAC (Centennial) rulemaking website at <http://www.ecy.wa.gov/programs/wq/ruledev/wac17398/1604ov.html>.
2. Signing up to receive e-mail notices at <http://listserv.wa.gov/cgi-bin/wa?A0=ECY-WQ-GRANTS-LOANS>.
3. Contacting the Rulemaking Lead:

Daniel Thompson
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Phone: 360-407-6510

DATE
07/19/16

NAME
Heather R. Bartlett

SIGNATURE

TITLE
Water Quality Program Manager

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 19, 2016

TIME: 9:55 AM

WSR 16-15-073