



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington State Department of Ecology AO# 12-03

Preproposal Statement of Inquiry was filed as WSR 12-19-055 and WSR 12-19-056; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Water Quality Standards for Surface Waters of the State of Washington – Chapter 173-201A WAC. Adopt Human Health Toxics Criteria into the standards. Adopt clarifying language and new language related to implementation tools for implementing the Surface Water Quality Standards. This rule proposal combines rulemaking activities announced in two separate pre-proposal statement of inquiries (CR-101) – WSR number 12-19-055 and WSR number 12-19-056 and updates rule language previously proposed in January 2015.

Hearing location(s):

See Attachment A

Submit written comments to:

Name: Becca Conklin

Address: Water Quality Program, Washington Department of Ecology, PO Box 47600, Olympia, WA 98504-7600

E-mail: swqs@ecy.wa.gov

Fax: (360) 407-6426 by (date) April 22, 2016 by 5:00 PM

Assistance for persons with disabilities: Contact

Water Quality Reception at Ecology, (360) 407-6600 by April 22, 2016

TTY: (877) 833-6341

Date of intended adoption: on or after August 1, 2016

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

See Attachment B

Reasons supporting proposal:

See Attachment C

Statutory authority for adoption:

RCW 90.48.035 Rulemaking authority

Statute being implemented:

Chapter 90.48 RCW – Water Pollution Control

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

Federal Clean Water Act (33 U.S.C. 1251)

DATE

1/29/16

NAME (type or print)

Maia D. Bellon

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 01, 2016

TIME: 9:57 AM

WSR 16-04-092

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

N/A

Name of proponent: (person or organization) Washington State Department of Ecology

- Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|----------------|------------------|---|----------------|
| Drafting | Susan Braley | Washington Department of Ecology, Lacey, Washington | (360) 407-6414 |
| Implementation | Cheryl Niemi | Washington Department of Ecology, Lacey, Washington | (360) 407-6440 |
| Enforcement | Heather Bartlett | Washington Department of Ecology, Lacey, Washington | (360) 407-6405 |

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes.

A copy of the small business economic impact statement or school district fiscal impact statement may be obtained by contacting:

Name: Becca Conklin

Address: Washington Department of Ecology, PO Box 47600, Olympia , WA 98504-7600

Phone: (360) 407-6413

Fax: (360) 407-6426

E-mail: swqs@ecy.wa.gov

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Becca Conklin

Address: Washington Department of Ecology, PO Box 47600, Olympia , WA 98504-7600

Phone: (360) 407-6413

Fax: (360) 407-6426

E-mail: swqs@ecy.wa.gov

No: Please explain:

Attachment A - Public Hearing and Comment Information

The public comment period on the proposed rule is open through April 22, 2016. You may give verbal or written comments at one of the in-person public hearings, or by the end of the comment period. If you attend an online webinar, you may give verbal comments, but written comments need to be submitted through one of the following options:

| | |
|---|--|
| <p>Email: swqs@ecy.wa.gov</p> <p>Fax: 360-407-6426</p> | <p>Standard mail: Washington State Department of Ecology Water Quality Program Attn: Becca Conklin, Water Quality Standards Coordinator P.O. Box 47600, Olympia, WA 98504-7600.</p> |
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All comments are due by 5:00 p.m. on April 22, 2016.

Public hearing schedule

We will be holding in-person and online workshops followed by public hearings on this rule proposal. Workshops will consist of a short presentation followed by a question and answer session. The formal public hearing will start after the workshop is over. At that time, we will invite public testimony.

Ecology will provide details about these workshops and public hearings on its website and through email announcements. For instructions on how to join and participate through the webinar, visit: <http://www.ecy.wa.gov/programs/wq/ruledev/wac173201A/1203inv.html>.

| In-Person Hearings | |
|--|---|
| <p><i>Western Washington - Evening</i></p> <p>Date: Tuesday April 5, 2016 Time: 6:30 p.m. Location: Georgetown Campus South Seattle Community College 6737 Corson Ave S - Building C Seattle, WA 98108</p> | <p><i>Eastern Washington - Evening</i></p> <p>Date: Wednesday April 6, 2016 Time: 6:30 p.m. Location: CenterPlace Regional Events Center 2426 N. Discovery Place Spokane Valley, WA 99216</p> |

| Webinar Hearings | |
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| <p><i>Daytime Webinar</i></p> <p>Date: Thursday April 7, 2016 Time: 1:30 p.m. – 4:30 p.m.</p> | <p><i>Evening Webinar</i></p> <p>Date: Thursday April 7, 2016 Time: 6:30 p.m.</p> |

Attachment B – Purpose of the proposal and its anticipated effects, including any changes to existing rules

Ecology is proposing amendments to Water Quality Standards for Surface Waters of the State of Washington – Chapter 173-201A WAC. The state’s water quality standards guide how the state regulates water pollution.

1. This rulemaking is to amend the water quality standards and provide new human health criteria. Adoption of new human health criteria into Washington’s water quality standards will take into account factors used to calculate each chemical criterion such as the amount of fish and shellfish people eat. The new criteria will be used for all federal Clean Water Actions: including wastewater discharge permits, water pollution identification, and water cleanup plans.
2. This proposal will also propose amendments regarding implementation of the water quality standards. The implementation tools being proposed include language revisions to the compliance schedule and variance sections, and a new section to allow the use of intake credits. Ecology is also proposing to add new language clarifying Combined Sewer Overflow (CSO) Treatment Facilities.

Attachment C – Reasons supporting proposal

Ecology is proposing to adopt new human health criteria to protect public health, safety, and welfare. The current human health criteria applied to Washington waters are outdated federal standards that do not reflect current science on protection from toxic chemicals. With adoption of this amendment, our state will have water quality standards for toxics that more accurately reflect the amount of fish and shellfish people eat in Washington.

Adopting new human health criteria was identified as a high priority when Ecology conducted a triennial review of the water quality standards in 2010. The triennial review is required by the federal Clean Water Act to ensure that states update standards as needed to reflect new and emerging science and information.

This rule proposal will also provide more language regarding how to implement the water quality standards. The proposed amendments to the implementation tools section of this rule are meant to provide more predictable regulatory tools to help entities that are subject to National Pollutant Discharge Elimination System (NPDES) permits comply with more protective standards. The rulemaking to amend implementation tools also directly addresses legislation passed (RCW 90.48.605) that obligates Ecology to amend water quality standards to allow compliance schedules in excess of ten years under certain circumstances for permitted discharges.