



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: January 17, 2019

TIME: 2:57 PM

WSR 19-03-124

Agency: Department of Ecology AO # 18-05

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-17-100 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 173-566 WAC – Streamflow Restoration Funding is a new rule for the implementation of Chapter 1, Laws of 2018 (ESSB 6091) and Chapter 90.94 RCW. The Streamflow Restoration Funding program will finance watershed planning projects under RCW 90.94.020, watershed restoration and enhancement projects under RCW 90.94.030, and the collection of data and completion of studies necessary to develop, implement, and evaluate watershed restoration and enhancement projects under Chapter 1, Laws of 2018, statewide.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 5, 2019	2:00 pm	300 Desmond Drive SE Lacey WA 98503	<p>Presentation, and a question and answer session, followed by the hearing.</p> <p>We are also holding this hearing via webinar. This is an online meeting that you can attend from any computer using internet access.</p> <p>Join online and see instructions: https://watech.webex.com/watech/onstage/g.php?MTID=ee97556cfd5ef9fcc63dfc2b0f993d4ed For audio call US Toll number 1-240-454-0887 and enter access code 807 166 766. Or to receive a free call back, provide your phone number when you join the event.</p>

Date of intended adoption: May 20, 2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Rebecca Inman

Address: Department of Ecology
Water Resources Program
US Mail: PO Box 47600, Olympia, WA 98504-7600
Parcel delivery service: 300 Desmond Dr. SE, Lacey, WA 98503

Email: Submit comments by mail, online, or at the hearing.

Fax: N/A

Other: Online: <http://ws.ecology.commentinput.com/?id=bJBti>

By (date) 5:00 pm, March 15, 2019

Assistance for persons with disabilities:

Contact Teresa Renot

Phone: 360-407-7285

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.

Email: Teresa.reno@ecy.wa.gov

Other: N/A

By (date) March 1, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Legislature, in enacting ESSB 6091, directed Ecology to develop a program to restore and enhance streamflows. In addition to fees collected from applicants for building permits and divisions of land where the development would rely on permit-exempt wells, the Legislature authorized \$300,000,000 to be appropriated over 15 years. The rule will establish process and criteria for prioritizing and approving funding applications, and developing and implementing funding contracts with chosen recipients. This will make funding decisions and contracting more transparent, consistent, and defensible.

Reasons supporting proposal: Prior to the Legislature enacting ESSB 6091, rural residential development was nearly precluded in some areas of the state due to the potential of adversely impacting a closed water body or stream/river where instream flows adopted into rule were not always met. The intent of the legislation was to allow continued development while protecting and enhancing streamflows and instream habitat to benefit Endangered Species Act-listed salmonids and other aquatic species. The proposal will ensure that projects to meet the intent of the legislation are implemented effectively.

Statutory authority for adoption: RCW 90.54.040 – Water Resources Act of 1971, RCW 43.21A.080 – Department of Ecology, and Chapter 90.94 RCW – Streamflow Restoration Act.

Statute being implemented: Chapter 90.94 RCW

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

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

Name of proponent: (person or organization) Department of Ecology Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Rebecca Inman	Lacey	360-407-6450
Implementation:	Bennett Weinstein	Bellevue	425-649-7121
Enforcement:	NA		

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name: N/A
Address: N/A
Phone: N/A
Fax: N/A
TTY: N/A
Email: N/A
Other: N/A

Is a cost-benefit analysis required under RCW 34.05.328?

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

Address: US Mail: PO Box 47600, Olympia , WA 98504-7600
Parcel delivery service: 300 Desmond Dr. SE, Lacey, WA 98503
Phone: 360-407-6450
Fax: 360-407-6574
TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711.
Email: Rebecca.inman@ecy.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|--|--|
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025 (4).

Explanation of exemptions, if necessary: Ecology has analyzed the compliance costs of this rulemaking in the regulatory analyses document. Based on this analysis Ecology has determined the proposed rule doesn't affect businesses. Therefore, Ecology is not required to prepare a small business economic impact statement (RCW 19.85.030(1)(a)).

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

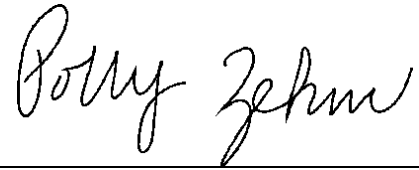
Name:
Address:
Phone:
Fax:
TTY: .
Email:
Other:

Date: 1/17/19

Name: Polly Zehm

Title: Deputy Director

Signature:

A handwritten signature in black ink that reads "Polly Zehm". The signature is written in a cursive style with a large initial 'P' and a long, sweeping underline.