



EXPEDITED RULE MAKING

CR-105 (June 2024) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: April 16, 2025

TIME: 9:16 AM

WSR 25-09-073

Agency: Department of Ecology AO 24-13

Title of rule and other identifying information: (describe subject) Chapter 173-158 WAC Flood Plain Management, (Floodway prohibition waivers for flood mitigation)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Ecology is leading an expedited rulemaking to amend Chapter 173-158 WAC: Flood Plain Management. This rulemaking will implement changes that were made to the state’s floodplain management law (RCW 86.16) with the passage of Senate Bill 5649 in 2024. These amendments will make it possible for Ecology to issue a waiver that would allow some lower-risk homes located in designated “floodways” to be structurally altered (for example, through home elevation) to make the homes safer from future flood events, as long as other requirements of the local land use authority (county, city, or town) are met.

Reasons supporting proposal: This amendment will ensure that the rule aligns with the changes to RCW 86.16 that allow flood-prone communities to request a waiver from Ecology to complete residential flood risk reduction projects before flooding occurs. Ecology will review each waiver request on a case-by-case basis and approve those that meet strict safety criteria. Homes that undergo flood risk reduction improvements will be prohibited from expanding the structural footprint of the home. Without this rule amendment, Ecology can only issue a waiver to allow flood risk reduction improvements after a home has been damaged by flooding.

Statutory authority for adoption: RCW 86.16 Flood Plain Management

Statute being implemented: RCW 86.16 Flood Plain Management

Is rule necessary because of a:

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

If yes, CITATION:

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

- Private
- Public
- Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jonathon Loos	HQ	425-725-0453
Implementation:	Jonathon Loos	HQ	425-725-0453
Enforcement:			

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

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

Name: Katie Wolt, Agency Rules Coordinator
Agency: Washington State Department of Ecology
Government Relations
Address: PO Box 47600, Olympia, WA 98503-7600
Phone: 360-763-2898
Fax:
Email: rulemaking@ecy.wa.gov
Other:

BEGINNING (date/time) May 7, 2025 **AND RECEIVED BY** (date/time) June 23, 2025

Date: April 16, 2025

Name: Heather Bartlett

Title: Deputy Director

Signature:

