



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

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FILED

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WSR 25-13-032

Agency: Department of Ecology AO #25-02

Subject of possible rule making:

Chapter 173-217 WAC, State Waters Alteration Permit

Ecology is initiating rulemaking to add a new rule – Chapter 173-217 WAC, State Waters Alteration Permit; to replace Ecology's existing process of authorizing impacts to state waters by establishing a new permitting program for projects that could alter or impact wetlands, streams, and other state waters. This rulemaking will establish a formal permitting program to safeguard wetlands, streams, and other state waters.

Statutes authorizing the agency to adopt rules on this subject:

State Water Pollution Control Act, Chapter 90.48 RCW

Reasons why rules on this subject may be needed and what they might accomplish:

Ecology has initiated state rulemaking to establish a new permitting program for projects that could alter or impact state waters. We are responsible for protecting Washington waters, including wetlands and streams, under the 1945 state [Water Pollution Control Act](#), the 1972 state [Shoreline Management Act](#), and 1990 state [Growth Management Act](#). We are using our long-standing authority under the state [Water Pollution Control Act](#) to add a new chapter, 173-217, to the Washington Administrative Code to establish a formal "State Waters Alteration Permit" program within Ecology. To protect state waters and process authorizations more effectively, permits issued through the new program will also outline the measures proponents must take to avoid, minimize and offset the adverse environmental impacts their projects pose to water quality and aquatic habitats. To ensure Washington waters are adequately protected and the process is transparent and moves efficiently, Ecology is beginning this rulemaking to establish a new permitting program.

The new statewide permitting program will improve customer service by:

- **Providing better clarity and predictability** regarding our actions and requirements
- **Creating general permits to streamline approvals** for projects with minor impacts
- Establishing opportunities for public review
- Setting mitigation requirements for projects

Ecology currently issues authorizations under the state Water Pollution Control Act for projects impacting state waters in the form of Administrative Orders. Due to the anticipated increase in requests for such authorizations to impact state waters that were previously regulated under the Clean Water Act, Ecology's rulemaking would establish a formal permitting process under the state Water Pollution Control Act. The rule would outline permit processing and review procedures, identify permit categories, create opportunities for public review and appeals, and set requirements for mitigation sequencing to offset adverse environmental impacts. As part of the rulemaking process, Ecology will consider streamlining the permitting process by creating general permits for specific types of projects with minor environmental impacts.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

The US Army Corps of Engineers and EPA regulate impacts to Waters of the United States under the Clean Water Act. Ecology will inform and coordinate with the agencies as the rulemaking proceeds to ensure that the state permit program does not conflict with existing permitting processes.

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).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

	(If necessary)
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Email: SWAPrulemaking@ecy.wa.gov	Email:
Web site: SWAP rulemaking webpage	Web site:
Other: SWAP rulemaking WAC 173-217 listserv	Other:

Additional comments:

Interested parties can stay informed about the rulemaking and public involvement opportunities as described above through subscribing to the "[SWAP rulemaking WAC 173-217](#)" listserv. Ecology will extend an offer for government-to-government consultation with tribal governments during each phase of rule development. Ecology will conduct an Environmental Justice Assessment in accordance with RCW 70A.02.060 as a part of this rulemaking.

Date: May 28, 2025

Name: Joenne McGerr

Title: SEA Program Manager

Signature:

