

WSR 23-22-123
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 23-06—Filed November 1, 2023, 7:49 a.m.]

Subject of Possible Rule Making: Ecology is beginning a rule making to amend chapter 173-166 WAC, Emergency drought relief.

Ecology currently has an emergency drought rule in effect, chapter 173-167 WAC, Emergency drought funding, which is effective through November 20, 2023. Ecology may adopt subsequent emergency rules until the permanent rule is adopted.

Through rule making, ecology plans to integrate information related to how ecology manages its emergency drought funding program into the permanent rule governing emergency drought relief. This rule making plans to streamline administration of emergency drought funding and to add clarity and definition to processes and terms related to emergency drought relief.

This update also intends to integrate equity considerations into funding distribution, including considerations identified under the Healthy Environment for All Act. Additionally, this rule making seeks to clarify appeals processes for emergency drought funding decisions, as well as the petition process for drought declaration.

As droughts become more common with a changing climate, an updated drought rule will provide increased efficiency and transparency around emergency drought relief.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.83B RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology is amending this rule to integrate information related to ecology's drought response funding program into the permanent drought rule. This avoids the need for emergency rule making each year an emergency drought declaration is made.

With permanent drought response funding secured through recent legislation, ecology seeks to provide clear and transparent information regarding the distribution of emergency drought funds.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies regulate emergency droughts in Washington; however, other state agencies are involved in the process to declare a drought. Ecology will coordinate with these state agencies and solicit their feedback in all public stages of this rule development. These include the department of health, department of fish and wildlife, department of agriculture, and the state conservation commission.

Process for Developing New Rule: 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 Caroline Mellor, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-628-4666, Washington relay service or TTY call 711 or 877-833-6341, email Caroline.Mellor@ecy.wa.gov, website in progress.

Additional comments: Interested parties can stay informed about the rule making and public involvement opportunities as described above. 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 rule making.

October 31, 2023

Ria Berns

Water Resources Program Manager