

RULE MAKING “R” US

or

Everything you always wanted to know about writing an
instream flow rule but were afraid to ask!




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Step 1

- Complete Instream Flow Recommendations in Basin:
 - Minimum Instream Flows/Closures*
 - Allocations
 - Ground Water

*Including: Deadman, Almota, Alpowa, George, Charlie, Tenmile, Couse, Meadow, Pataha, Joseph, Grand Ronde
Others? Mill, Cummings, Tumulum etc.

Big Picture Process

- Administrative Procedures Act – Chapter 34.05 RCW
 - CR-101  Pre-proposal Statement of Inquiry
 - CR-102  Notice of Proposed Rule Making
 - CR-103  Notice of Rule Adoption

Forms required by code reviser, published in State Register

Step 2

- **File CR-101 with State Code Reviser**
 - Pre-proposal State of Inquiry Form
 - Notifies public about intent to adopt a new rule
 - Why Rule is needed & what it accomplishes

CR-101 – Ecology Procedures

- Rule Authorization Document
 - Senior Management Team Briefing
 - Program Manager & Senior Management Team Sign

CR-101 - Ecology Procedures

- Rule Development Plan
 - Program Manager & Rules Coordinator Sign
- Communications Strategy
- SEPA

Step 3

- **Start Work on Draft Rule Language**
 - **Components:**
 - Purpose
 - Definitions
 - Stream Management Units

Step 3

- **Components Continued:**
 - **Instream flows**
 - **Groundwater**
 - **Allocations**
 - **Compliance and Enforcement**

Step 4

Early Outreach!

Step 5

- Work with Rule Writer & Coordinator
 - Format
 - Content
 - Schedule

Step 6

- Ecology HQ Policy Review
 - Plain Talk Review
 - WDFW Review
- Legal Review
 - State AG
 - County
 - City

Step 7

MORE OUTREACH!

- ☞ Local Government
- ☞ Tribes
- ☞ Legislators
- ☞ General Public
- ☞ Environmental Groups
- ☞ Others

Step 8

- File CR-102 with Code Reviser
 - Proposed Rule Making Form – includes:
 - Draft Rule Language
 - Economic Documents
 - Public Hearing Notice
 - Proposed Adoption Date
 - Public Comment deadline & process

CR-102 – Ecology Procedures

- Submit final draft rule language to Rules Unit 6 weeks before filing CR-102
- Economic analysis is prepared during this time
- Briefing with Deputy Director
- Prepare CR -102 filing packet

Step 9

- Formal Public Outreach
 - Public Hearing(s) – required
 - Hearing Notice - Newspaper ad 7 days before hearing
 - Consider other outreach strategies

Step 10

- File CR-103



Notice of Rule Adoption

- Must adopt w/in **180 days** of CR-102
- Adoption date
- Effective date
- Concise Explanatory Statement

CR-103 – Ecology Procedures

- Submit Final Rule language to Rules Unit 4 weeks prior to filing CR-103
- Revisions to Economic documents are made at this time
- Schedule briefing with Director

Other Stuff

- Ecology's Rule Unit
 - Checklists
 - Forms
 - Templates
 - Economists

Take Home Message #1

- Takes longer than you think
- Always the temptation to revise rule language up to the day the rule is filed
- Stuff happens that no one can predict
- Stuff happens that you can predict but cannot help

Take Home Message #2

- **Lot's of hoops, but we can do it!**
- It takes:
 - Careful Planning
 - Determination and Persistence
 - Hard Work
 - Lots of Help