



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Washington Utilities and Transportation Commission

Subject of possible rule making: The Utilities and Transportation Commission (UTC) commences this inquiry to implement SSB 5034, Chapter 214, Laws of 2011, which requires that wastewater companies that provide "systems of sewerage" to one hundred or more customers, or at a volume of 27,000 to 100,000 gallons per day, for compensation, first obtain a certificate of public convenience and necessity and be regulated as a private utility by the UTC. Docket US-111021

Statutes authorizing the agency to adopt rules on this subject: Chapter 214, Laws of 2011, sections 3, 4, 8 and 29. Executive Order 10-06 directs agencies to suspend "non-critical" rulemaking. The UTC believes the Executive Order and OFM instructions allow this rulemaking because it is required by recent legislation, which was requested by the industry.

Reasons why rules on this subject may be needed and what they might accomplish: The law establishes basic requirements for a certificate, provides authority to require the sale of unfit companies, provides authority to request receivership of failed wastewater companies and incorporates the wastewater company program into the general provisions of Title 80 RCW. Rules may be necessary to implement the law to provide additional details consistent with those requirements and authorities; and establish procedures, methodologies and standards. Rules may also be necessary to govern the sale and transfer of wastewater companies, their operations, financial records and reporting, affiliated transactions, rates, consumer protection provisions and allow the agency to establish regulatory fees charged to companies.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The Department of Health and the Department of Ecology issue permits for systems of sewerage. They will participate in educational and rulemaking workshops and the review of draft regulations.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

The UTC will sponsor a workshop for the purpose of educating UTC staff about the industry to be regulated and the current health, safety and environmental regulations governing the collection and treatment of wastewater. The workshop will also educate the industry and affected state and local agencies about private utility regulation. The UTC will subsequently hold rulemaking workshops and circulate for comment one or more drafts of regulations before issuing a CR-102 and holding a hearing for consideration of a proposed set of rules.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Interested persons may submit their contact information to the Executive Director and Secretary, Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, 98504-7250; Telephone (360) 664-1174; Fax (360) 586-1150. For specific information regarding opportunities for written comments and to ensure receipt of further information concerning the rulemaking, please see the attachment to this form.

DATE
June 22, 2011

NAME (TYPE OR PRINT)
David W. Danner

SIGNATURE

TITLE
Executive Director and Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED
DATE: June 22, 2011
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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
CR-101 - ATTACHMENT
DOCKET US-111021

NOTICE OF FINANCIAL PARTICIPATION TO FUND RULEMAKING PROJECT

Under Section 29 of Chapter 214, Laws of 2011, the UTC may adopt rules to implement the law prior to the July 1, 2012, effective date to ensure that rules are in place when the law becomes effective. To ensure that the UTC can pay for the cost of the rulemaking, under Section 29(2) of the law, the UTC is authorized to collect payments from wastewater companies and other private entities that have notified the Commission of their willingness to cover the costs of this rulemaking. The UTC is not required to pursue the rulemaking unless it receives sufficient payments to cover the projected costs of the rulemaking. To ensure that it receives sufficient payments, **the UTC is requesting companies or other private entities to send a letter of intent to participate financially to the UTC no later than July 20, 2011.** Upon receipt of statements of intent, the UTC will proportionately divide the anticipated cost of the rulemaking among those stating their intent to participate, and will send an invoice to those companies, persons or organizations. The UTC will not begin the rulemaking process until it has received sufficient funds to pay for the rulemaking.

Persons interested are asked to send the letter of intent to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P. O. Box 47250, Olympia, Washington, 98504-7250, 360-664-1174 (Fax: 360-586-1150).

TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULEMAKING

The UTC wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. Financial participation in the rulemaking is not required to receive mailings, participate in workshops or comment on the draft or proposed regulations. If you wish to continue to receive notices and information about the rulemaking, including an opportunity to participate in or attend workshops, or to comment on drafts or proposed rules, please advise the UTC Records Center by any one of the following methods:

1. Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket US-111021, and the words "Please keep me on the mailing list;" or
2. E-mail your name, address, telephone and fax numbers, referencing Docket US-111021, and the words "Please keep me on the mailing list" to records@utc.wa.gov.

Please note that all information in the mailings will be accessible through the Commission's Internet web site at: <http://www.utc.wa.gov/111021>.

THOSE PERSONS WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULEMAKING