# PREPROPOSAL STATEMENT OF INQUIRY

## CR-101 (October 2017)
## (Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

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DATE: November 19, 2025
TIME: 7:13 AM

WSR 25-23-109

**Agency:** Department of Ecology AO #25-11

**Subject of possible rule making:** The Washington State Department of Ecology is considering revisions to Chapter 173-201A WAC, Water Quality Standards for Surface Waters of the State of Washington. We are considering updating the protection of water contact recreation in freshwater by adding water quality criteria for cyanotoxins under WAC 173-201A-200, Freshwater designated uses and criteria.

We may amend other sections of chapter 173-201A WAC as necessary to support any revisions to the section noted above.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 90.48.035 Water Pollution Control - Rule-making authority; and 40 CFR 131.20 Water Quality Standards - State review and revision of water quality standards, requires states and Tribes (with primacy for clean water actions) to periodically review and update the water quality standards.

**Reasons why rules on this subject may be needed and what they might accomplish:** Some algal blooms have cyanobacteria that produce toxins that are particularly harmful to humans. With this rulemaking, we would set recreational criteria for toxins produced by harmful algal blooms to protect the health of humans while swimming or doing other activities in and on water.

The freshwater recreational criteria we plan to consider are two cyanotoxins the U. S. Environmental Protection Agency (EPA) has recommended criteria for: microcystins and cylindrospermopsin. We may also consider developing criteria for other toxins, including anatoxin-a and saxitoxin.

During the 2025 Triennial Review of the surface water quality standards, we committed to prioritizing a rulemaking in the next three years to consider adding recreational criteria for cyanotoxins. We are now ready to begin that effort.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** Coordinating federal and state agencies include the EPA, National Oceanic and Atmosphere Administration, United States Fish and Wildlife Service, and the Washington State Department of Health.

**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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|---|---|
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| Additional comments: Interested parties can stay informed about the rulemaking and public involvement opportunities as described above. Ecology will extend an invitation for government-to-government consultation with Tribal governments during each phase of rule development.<br><br>Ecology will conduct an Environmental Justice Assessment in accordance with RCW 70A.02.060 as a part of this rulemaking. | |
| **Date:** 10/30/2025<br>**Name:** Jon Kenning, Ph.D.<br>**Title:** Water Quality Program Manager | **Signature:** |