



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: April 18, 2022

TIME: 1:27 PM

WSR 22-09-057

Agency: Department of Commerce

Title of rule and other identifying information: (describe subject) WAC 365-135 BOND CAP ALLOCATION: amendments to -070(1)(a).

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rule change will adjust the date when an exempt facility applicant can be awarded more than thirty percent of the initial set-aside for exempt facility projects from July 1 to May 1. This will allow exempt facility applicants to receive funding beyond the current 30% limitation earlier and without concern about ability and position to access the reallocation of unused cap. This will assist with maximizing the utilization of bond cap for exempt facility projects and allow for larger exempt facility projects to advance

--The change to WAC 365-135-070(1)(a) amends the date (from 7/1 to 5/1) when an exempt facility applicant may be awarded more than thirty percent of the initial set-aside for exempt facility projects.

Reasons supporting proposal: By changing the date from July 1 – concurrent with the general release date for all set-asides – to May 1, this will provide exempt facility applicants the opportunity to request resources beyond the initial thirty percent allocation and enable exempt facility applications the opportunity to utilize the full exempt facility set-aside. This change would allow larger exempt facility projects the opportunity to access these funds before the July 1 reallocation period. This change will increase local economic vitality, including creating or retaining jobs, growing state and local tax bases, reducing environmental pollution, and producing lower-cost energy.

--Without the change to WAC 365-135-070(1)(a), an exempt facility applicant that requests more than thirty percent of the exempt facility set-aside is inhibited from consideration for these resources before the reallocation period. As a result, large exempt facility projects are at a disadvantage in competing for reallocated volume cap on July 1. Amending the date from 7/1 to 5/1 will allow large exempt facility projects to advance without the current disadvantage.

Statutory authority for adoption: RCW 34.05.353(1)(b) and RCW 34.05.353(1)(d)

Statute being implemented: N/A

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Name of proponent: (person or organization) Department of Commerce

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Allan Johnson	1011 Plum St SE, Olympia, WA, 98504	360-725-5033
Implementation:	Allan Johnson	1011 Plum St SE, Olympia, WA, 98504	360-725-5033
Enforcement:	Allan Johnson	1011 Plum St SE, Olympia, WA, 98504	360-725-5033

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: This will affect timing of release/reallocation dates but will not change the overall amount of private activity volume cap. It may assist in maximizing use of volume cap within a specific calendar year.

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): The proposed WAC amendments are stakeholder request and have been negotiated with all affected stakeholders. The change will increase equity and use of the exempt facility set-aside for large projects that cannot currently receive an allocation beyond the current 30% allocation limit.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY (date) June 20, 2022

Date: April 18, 2022
Name: Dave Pringle
Title: Rules Coordinator

Signature:
