



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Ecology AO#13-12

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: The purpose of this rule making is to amend Chapter 173-401 WAC Operating Permit Regulation. The amendments:

- Update language for the complexity portion of Ecology's air operating permit (AOP) fees to allow for fair fee distribution to Ecology AOP sources.
- Revise audit provisions.
- Clarify applicability requirements.
- Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

Citation of existing rules affected by this order:

Repealed:
Amended: Chapter 173-401 WAC, Operating Permit Regulation
Suspended:

Statutory authority for adoption: RCW 70.94.011, RCW 70.94.161, RCW 70.94.162, RCW 70.94.331, RCW 70.94.510

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-16-112 on August 4, 2015.

Describe any changes other than editing from proposed to adopted version: See Attachment A.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Air Quality Program	phone (360) 407-6800
Address: Department of Ecology	fax (360) 407-7534
PO Box 47600	e-mail AQComments@ecy.wa.gov
Olympia, WA 98504-7600	

Date adopted: 2/3/16

CODE REVISER USE ONLY

NAME (TYPE OR PRINT)
Maia Bellon

SIGNATURE

TITLE
Director, Department of Ecology

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 03, 2016
TIME: 2:10 PM

WSR 16-05-003

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	<u>4</u>	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	<u>5</u>	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>3</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>13</u>	Repealed	_____

Attachment A – Describe any changes other than editing from proposed to adopted version:

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on August 4, 2015 and the adopted rule. Ecology made these changes for all or some of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.

The following content describes the changes and Ecology's reasons for making them:

Section	Change(s)	Purpose/Effect
200(35)	Changed July 1, 2011 to January 2, 2011.	Changed to align with date Environmental Protection Agency (EPA) required permitting agencies to include greenhouse gas emissions. July 1 no longer valid due to US Supreme Court decision invalidating part of the EPA rule that required AOPs for otherwise minor sources with 100,000 tpy CO ₂ e emissions.
510(1)	Deleted proposed text "and unregulated emission units at nonmajor sources as described in". Added text "or units not regulated under".	Ecology received comment that "unregulated emission units" is not a defined term. Text has been corrected for clarity of the intent.