



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Ecology AO # 03-09

- Permanent Rule
- Emergency Rule

**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)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**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 rulemaking is to adopt chapter 173-407 WAC. The purpose of this chapter is to recover permitting authority costs related to implementing the mitigation program, to clarify CO<sub>2</sub> emissions calculations, and to integrate mitigation program plans into the air quality permits using the order of approval process.

**Citation of existing rules affected by this order:**

Repealed: None  
 Amended: None  
 Suspended: None

**Statutory authority for adoption:** RCW 70.94.892 and Chapter 80.70 RCW

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 04-21-070 on October 19, 2004 (date).

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

1. Change title 030(4) to: Modifying existing fossil-fueled thermal electric generating facilities.
2. Change to 030(4)(c) to read: (c) *The increase to the facility or units is the greater of the following measures: (i) an increase of station-generating capability of more than 25 MWe; or (ii) an increase in CO<sub>2</sub> emissions output by 15% or more.*
3. Replace "or similar analysis" in 050 (1)(e) with "*unless a differing analysis is necessary or appropriate for the electric generating process and type of equipment*". Also in 050(1)(e): 1) add notation to referring to the source of information (AP-42) for fuel chart; 2) add "fossil" to other fuels; 3) add Non-fossil fuels category to chart with a corresponding value of 00.00.

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

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 Address: Department of Ecology, P.O. Box 47600 fax ((360)407-6989)  
 Olympia, WA 98504-7600 e-mail [DAVR461@ecy.wa.gov](mailto:DAVR461@ecy.wa.gov)

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:**

12/21/04

**NAME (TYPE OR PRINT)**

Linda Hoffman

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

1/33

05-01-237

**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:

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>9</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>3</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>