



RULE-MAKING ORDER

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

Agency: Department of Ecology AO#04-10

- 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 the adoption is to update the Agricultural Burning Rule to: 1) incorporate legislative changes and corrections, 2) clarify technical issues and definitions, 3) integrate agreed upon concepts identified in the 9th Circuit Court of Appeals Settlement Agreement, 4) describe the procedures Ecology or a local air authority with jurisdiction will use to grant specific permission to burn, 5) specify additional permit and permit application requirements, 6) describe changes to and clarify permitting authority responsibilities and 7) further spell out the criteria Ecology or a local air authority with jurisdiction will use to delegate all or part of the agricultural burning permit program.

Citation of existing rules affected by this order:

Repealed: None
 Amended: Chapter 173-430 WAC
 Suspended: None

Statutory authority for adoption: RCW 70.94.650; RCW 70.94.743; and RCW 70.94.745

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR **06-09-081** on April 18, 2006 (date)

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:

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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: July 26, 2006

NAME (TYPE OR PRINT)

Jay J Manning

SIGNATURE

Polly Zehm for Jay Manning

TITLE

Director, Department of Ecology

CODE REVISER'S OFFICE
STATE OF WASHINGTON

FILED

CODE REVISER USE ONLY

JUL 26 2006

TIME 4:01 AM

DATE 06-16-052 (M)

(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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>3</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>8</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>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

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	Repealed	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	Repealed	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	Repealed	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

Attachment A

1. 020(5) - Replace "grower" with "agricultural operation"
2. 020(5) - Add term "agricultural" to commercial activities
3. 040(2) - Replace "and" with "or" and delete "pollution control" from local air pollution control authority
4. 040(3)(a)- Add phrase "local air authorities with jurisdiction"
5. 040(3)(f) - Add "in whole or in part" and replace agency with "authority"
6. 040(4)(a)(i) – Add term "calendar"
7. 040(4)(a)(i)-Replace "farm" with "agricultural operation"
8. 040(4)(a)(ii) Replace "farm" with "agricultural operation" and add "calendar"
9. 040(4)(a)(ii)- Add "debris from"
10. 040(4)(c)(i)- Add "calendar"
11. 040(4)(c)(i)- Replace "farm" with "agricultural operation"
12. 040(4)(c)(iv)- Add a column to the chart entitled "section" to correlate the fee level with the actual WAC section.
13. 040(4)(d)- Replace "prior to receiving a permit" with "when submitting the application"
14. 080(2)(a) – Create two sentences. Use "templates" as a modifier to refer to the type applications and permits local air authorities are required to use.
15. 080(3) – Replace the word "agreement" with the term "order"
16. 080(6)- insert a comma and remove the word "and"
17. 080(6)(a) – Rewrite the first sentence. Delete "when a farmer decides to burn fewer acres than identified in the" and replace it with "for permitted acres not burned"
18. 090(2) - Replace "Delegation criteria include:" with "The delegated permitting authority must, at a minimum, meet all of the following criteria:"