



RULE-MAKING ORDER

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

Agency: Department of Ecology AO # 07-05

- 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: See attached #1.

Citation of existing rules affected by this order:

Repealed: WAC 173-900-040 and 050
 Amended: WAC 173-900-020, 030, 200, 210, 300, 600, 610, 620, and 630 and WAC 173-303-040 and 071
 Suspended:

Statutory authority for adoption: Chapter 70.95N RCW Electronic product recycling, Chapter 70.105 RCW Hazardous waste management, and Chapter 70.105D RCW Hazardous waste cleanup – Model toxics control act.

Other authority : N/A

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 07-15-037 on July 12, 2007 (date).
 Describe any changes other than editing from proposed to adopted version: See attached #2.
 If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Jay Shepard phone (360) 407-7040
 Address: Department of Ecology, Solid fax (360) 407-6102
 Waste and Financial Assistance Program, e-mail WA-recycles-electronics@ecy.wa.gov
 PO Box 47600, Olympia, WA 98504-7600

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:

10/5/07

NAME (TYPE OR PRINT)

Jay J. Manning

SIGNATURE

TITLE

Director, Department of Ecology

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 5 2007

TIME 3:58 AM/PM PM
 WSR 07-21-013

(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>70</u>	Amended	<u>11</u>	Repealed	<u>2</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>70</u>	Amended	<u>11</u>	Repealed	<u>2</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>70</u>	Amended	<u>11</u>	Repealed	<u>2</u>

Attachment #1

Purpose:

The rule adoption includes the following amendments to WAC 173-900:

- Electronic Product Recycling Plan content and submission requirements;
- Performance standards for electronic product processors used directly by plan operators, collectors and transporters;
- Recycling service level standards;
- Reporting processes and requirements for plan operators, local governments, local communities, processors, collectors and transporters;
- Registration requirements and process for processors;
- Collector standards;
- Process for establishing return share and equivalent share of responsibility for manufacturers;
- A sampling methodology to be used by all plan operators to provide Ecology data to establish return shares;
- Requirements for the Materials Management and Finance Authority;
- Warnings, penalties, and violations, associated with these requirements; and
- Housekeeping changes to previously adopted sections of Chapter 173-900 WAC including the repeal of WAC 173-900-040 and WAC 173-900-050
- Other requirements necessary to implement Chapter 70.95N RCW.

The rule proposal includes the following amendments to WAC 173-303:

- Amendments to include an exemption for cathode ray tubes (CRTs) in televisions and monitors from chapter 173-303 WAC if the requirements are met.

Attachment #2

Changes other than editorial to Chapter 173-900 WAC:

- **Performance standards for processors**

Ecology was required to establish performance standards for electronic product processors directly used by plans. Changes between the draft and final rules language include clarifying language and a correction to comply with the law that the authority or authorized parties operating plans are responsible to assure compliance with the standards. Ecology is required to enforce on plan operators that use processors that are not in compliance with the standards rather than enforcing directly on processors.

Also within the standards, references to "reuse" as a waste management priority were removed in that there is no basis in RCW 70.95N or RCW 70.95 – Solid Waste Management Recovery and Recycling, to "reuse" as a waste management priority.

- **Collectors and Reuse**

It was clarified that collectors can only sell for reuse whole functioning units or components. Only processors can sell parts for reuse. The definition of reuse in the law is "any operation by which an electronic product or a component of a covered electronic product changes ownership and is used for the same purpose for which it was originally purchased." References to "refurbishment" have been eliminated because the concept does not exist in the law.

Changes made to Chapter 173-303 WAC:

- Changes made were only to clarify references within the rule and to capitalize titles.