



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: November 28, 2022

TIME: 11:45 AM

WSR 22-24-004

**Agency:** Department of Ecology AO #21-04

**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: Beginning in 2028, the law establishes two preconditions that Ecology must demonstrate before reducing the carbon intensity standard for fuels beyond 10 percent below 2017 levels:
  - A 15 percent increase in the volume of in-state biofuel production using feedstocks produced in-state, and
  - Permit issuance (after July 1, 2021) for a facility or facilities to increase biofuel production capacity by at least 60 million gallons/year, including at least one new facility producing at least 10 million gallons/year.

**Purpose:** To implement the Transportation Fuel - Clean Fuels Program (Chapter 70A.535 RCW), Ecology is adopting:

- A new rule: Chapter 173-424 WAC – Clean Fuels Program Rule
- Amendments to: Chapter 173-455 WAC – Air Quality Fee Rule

The adopted rules:

- Establish carbon intensity standards for transportation fuels used in Washington.
- Assign compliance obligations to fuels with carbon intensities that exceed the standard.
- Establish compliance methods including assigning credits to fuels that have carbon intensities below the standard.
- Establish the process for setting fees to recover the costs of developing and implementing the program.

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

New: Chapter 173-424 WAC  
 Repealed:  
 Amended: Chapter 173-455 WAC  
 Suspended:

**Statutory authority for adoption:** Chapter 70A.535 RCW Transportation Fuel—Clean Fuels Program

**Other authority:** N/A

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

Adopted under notice filed as WSR 22-15-077 on July 18, 2022 (date).

Describe any changes other than editing from proposed to adopted version: Refer to the Concise Explanatory Statement for the changes from the proposed rule to the adopted rule in the following sections:

**WAC 173-424-110 Definitions**

**WAC 173-424-120 Applicability**

- Subsection (3)

**WAC 173-424-130 Exemptions**

- Subsections (1), (2), (3)

**WAC 173-424-140 General requirements**

- Subsections (1), (2), (3)

**WAC 173-424-200 Designation of fuel reporting entities for liquid fuels**

- Subsection (2)

**WAC 173-424-210 Fuel reporting entities for gaseous fuels**

- Subsection (2)

**WAC 173-424-220 Designation of fuel reporting entity for electricity**

- Subsections (3) through (12)

**WAC 173-424-300 Registration**

- Subsections (1), (2)

**WAC 173-424-400 Recordkeeping**

- Subsections (1), (2), and (6)

**WAC 173-424-410 Quarterly reports**

- Subsection (1)

**WAC 173-424-420 Specific reporting requirements**

- Subsections (2), (3), (4), (6)

**WAC 173-424-430 Annual compliance reports**

- Subsection (1)

**WAC 173-424-500 Demonstrating compliance**

- Subsection (4)

**WAC 173-424-510 Credit and deficit basics**

- Subsections (1), (3)

**WAC 173-424-520 Fuels to include in credit and deficit calculation**

- Subsection (4)

**WAC 173-424-540 Calculating credits and deficits**

- Subsections (2), (3), (4)

**WAC 173-424-550 Advance crediting**

- Subsections (1), (2), (3), (4), (6), (7)

**WAC 173-424-560 Generating and calculating credits for ZEV fueling infrastructure pathways**

- Subsections (1), (2)

**WAC 173-424-570 Credit clearance market**

- Subsection (2)

**WAC 173-424-600 Carbon intensities**

- Subsections (1), (3), (4), (5), (6), (7), (9)

**WAC 173-424-610 Obtaining a carbon intensity**

- Subsections (1), (7), (8), (9), (13), (14), (15)

**WAC 173-424-620 Energy economy ratio-adjusted carbon intensity applications**

- Subsections (3), (5)

**WAC 173-424-630 Determining the carbon intensity of electricity**

- Subsections (1), (3), (4), (5), (7)

**WAC 173-424-700 Authority to suspend, revoke, or modify**

- Subsections (1), (2)

**WAC 173-424-710 Public disclosure**

- Subsection (2)

**WAC 173-424-900 Tables**

**WAC 173-455-150**

- Subsections (1), (3), (4), (5), (6), (7)

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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Web site: <https://apps.ecology.wa.gov/publications/SummaryPages/2202058.html>

Other: N/A

**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	___	Repealed	___
Recently enacted state statutes:	New	<u>32</u>	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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**The number of sections adopted on 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	___	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	___	Repealed	___

Signature:

Date Adopted: 11/28/2022

Name: Laura Watson

Title: Director

A handwritten signature in black ink, appearing to read 'L. Watson', written in a cursive style.