



# 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: July 18, 2018

TIME: 7:34 AM

WSR 18-15-083

**Agency:** Department of Ecology AO #16-02

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) October 1, 2018 (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 Department of Ecology is repealing existing Chapter 173-360 WAC and adopting new Chapter 173-360A WAC, Underground Storage Tank (UST) Regulations. The new chapter modifies and replaces the repealed chapter. The rule was modified to:

1. Incorporate federal rule changes needed to maintain state program approval, as specified in 40 C.F.R. Parts 280 and 281 (such as new operation and maintenance requirements for UST systems and requirements for field-constructed tanks and airport hydrant systems).
2. Integrate changes to the state statute that authorizes the program, Chapter 90.76 RCW (such as licensing requirements for UST systems).
3. Update other requirements governing the program (such as UST service provider requirements).
4. Streamline rule requirements, improve rule clarity, and improve consistency within the rule and with other state and federal laws and rules (such as reorganizing the rule).

For more information about the rulemaking, visit: <https://www.ecology.wa.gov/Regulations-Permits/Laws-rules/Rulemaking/WAC-173-360-Mar16>.

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

New: Chapter 173-360A WAC  
 Repealed: Chapter 173-360 WAC  
 Amended:  
 Suspended:

**Statutory authority for adoption:** Chapter 90.76 RCW

**Other authority:** N/A

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

Adopted under notice filed as WSR 18-03-178 on January 24, 2018 (date).  
Describe any changes other than editing from proposed to adopted version:

The Department of Ecology made the following changes, including editing, to Chapter 173-360A WAC:

1. **Throughout rule:** Replaced placeholder dates based on the effective date with actual dates. For example, replaced “effective date of rule” with “October 1, 2018,” and “two years after effective date of rule” with “October 1, 2020.”
2. **Throughout rule:** Replaced “shall” with “must” in provisions that impose an obligation to act.
3. **WAC 173-360A-0110(2)(a)(iii):** Corrected citation to 40 C.F.R. Part 50.
4. **WAC 173-360A-0150(46)(c):** Corrected grammar in definition of “owner.”
5. **WAC 173-360A-0200(7):** Clarified where licenses must be displayed by deleting the ambiguous language “where the tanks are located.”

6. **WAC 173-360A-0300(2)(b):** Removed the following two codes of practice for installing UST systems added in the proposed rule:
  - Petroleum Equipment Institute, Recommended Practice 1000, "Recommended Practices for the Installation of Marina Fueling Systems;" and
  - Petroleum Equipment Institute, Recommended Practice 1400, "Recommended Practices for the Design and Installation of Fueling Systems for Emergency Generators, Stationary Diesel Engines and Oil Burner Systems."
7. **WAC 173-360A-0300(4):** Eliminated prohibition on installing used tanks added in the proposed rule. As under the existing rule, the adopted rule allows used tanks to be installed if they meet applicable performance standards and are recertified by the manufacturer. Ecology must also be notified at least thirty days before used tanks are installed.
8. **WAC 173-360A-0300(5):** Edited language governing installation documentation (changed from "included with the application" to "included as part of the application"). No changes were made to documentation requirements.
9. **WAC 173-360A-0430(2)(b):** Eliminated the requirement added in the proposed rule for owners and operators to contact a corrosion expert within 24 hours when a cathodic protection system fails a cathodic protection test.
10. **WAC 173-360A-0430(3)(b)(i):** Changed the requirement added in the proposed rule to allow owners and operators to contact a cathodic protection tester instead of a corrosion expert when a rectifier inspection indicates that the system is not operating properly.
11. **WAC 173-360A-0450(5)(b), 0460(5)(b), 0470(5)(b), 0480(6)(b):** Edited language specifying compliance dates for testing of containment sumps used for interstitial monitoring, testing of spill prevention equipment, inspections of overfill prevention equipment, and testing of release detection equipment. No changes were made to the compliance dates.
12. **WAC 173-360A-0470(1):** Specified purpose of the inspections of overfill prevention equipment.
13. **WAC 173-360A-0480(6):** Edited language by making subsection header (compliance dates) plural instead of singular.
14. **WAC 173-360A-0480(6):** Specified that testing of automatic line leak detectors is an existing requirement that must continue to be complied with. All other testing of release detection equipment must begin by the specified compliance dates.
15. **WAC 173-360A-0920:** In Table 920-1, edited the description of the UST system service "Installing UST systems or components" by deleting "except cathodic protection."
16. **WAC 173-360A-0920:** In Table 920-1, edited footnote (1). No changes were made to the requirement.
17. **WAC 173-360A-1005(7) and (11):** Edited language in definitions of "local government" and "property damage" by adding preposition "to" in the first sentence.

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://fortress.wa.gov/ecy/publications/SummaryPages/1809058.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	<u>59</u>	Amended	___	Repealed	<u>1</u>
Recently enacted state statutes:	New	<u>67</u>	Amended	___	Repealed	<u>2</u>

**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	<u>43</u>	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>113</u>	Amended	___	Repealed	<u>89</u>
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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	___

**Date Adopted:** July 18, 2018

**Name:** Maia D. Bellon

**Title:** Director

**Signature:**

*Maia Bellon by Polly Zehm*