



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Environmental Hearings Office (Pollution Control Hearings Board)

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: 09/08/97

(2) Purpose: To conform rules to Substitute House Bill 1314 and to clarify existing language.

(3) Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 371-08-310, 371-08-335, 371-08-555
 Suspended:

(4) Statutory authority for adoption: RCW 43.21B.170 and SHB 1314
Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 97-15-056 on 7/15/97 (date).
Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY - N/A

- Under RCW 34.05.350 the agency for good cause finds:
- (a) 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.
 - (b) 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:

EXPEDITED REPEAL ONLY N/A

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

Yes No If Yes, explain:

(6) Effective date of rule:

Emergency Rules

- Permanent Rules or Expedited Rule Making**
- 31 days after filing
 - Other (specify) _____*
- Emergency Rules**
- Immediately
 - Later (specify)

* (If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)
Suzanne M. Skinner

Signature

Title
Administrative Appeals Judge

Date
9/12/97

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 15 1997

TIME 3:41 AM
WSR 97-19-064 PM

**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Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed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	Amended <u>2</u>	Repealed

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

New	Amended	Repealed
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The number of sections adopted in 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 <u>1</u>	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 <u>3</u>	Repealed

AMENDATORY SECTION (Amending WSR 96-17-015, filed 8/12/96, effective 9/12/96)

WAC 371-08-310 Computation of time. (1) The time within which any act shall be done, as provided by these rules, shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or a legal holiday, and then it is excluded and the next succeeding day which is neither a Saturday, Sunday nor a legal holiday is included. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

(2) This section also pertains to the period for filing an appeal with the board.

AMENDATORY SECTION (Amending WSR 96-17-016, filed 8/12/96, effective 9/12/96)

WAC 371-08-335 Filing a timely appeal with the board. (1) An appeal before the board shall be begun by filing a notice of appeal with the board at the environmental hearings office and by serving a copy of the appeal notice on the agency whose decision is being appealed. For the board to acquire jurisdiction both such filing and such service must be timely accomplished.

(2) The notice of appeal shall be filed with the board within thirty days of the date that a copy of the order or decision is ~~(mailed)~~ posted in the United States mail, properly addressed, postage prepaid, to the appealing party. The board's rule governing the computation of time (WAC 371-08-310) shall determine how the thirty-day appeal period is calculated.

(3) An appeal is filed with the board on the date the board actually receives the notice of the appeal, not the date that the notice is mailed. Upon receiving the notice of appeal, the board will acknowledge receipt. The date stamped on the appeal notice shall be prima facie evidence of the filing date. The board may thereafter require that additional copies be filed.

AMENDATORY SECTION (Amending WSR 96-15-003, filed 7/3/96, effective 8/3/96)

WAC 371-08-555 (~~(Notice of appeal to the)~~) Time for filing petitions for review to superior court. (~~((All appeals from orders of the board shall be to a superior court, unless the board certifies the order for direct review to the court of appeals. In cases of appeal to superior court, the appealing party shall file with the board and all parties of record a copy of the notice of appeal to the superior court.))~~) An appeal of a final board order is called a petition for review. A petition for review must be filed with superior court within thirty days of the date that the board issues its final order or decision. The petitioner shall file a copy of the petition for review to superior court with the board and all parties of record. All appeals must first be filed in superior court even if direct review to the court of appeals will be sought.