



DEPARTMENT OF
ECOLOGY
State of Washington

Rule Implementation Plan
Greenhouse Gas Mitigation Requirements
and Emissions Performance Standard for
Power Plants
Chapter 173-407 WAC

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Publication and Contact Information

This report is available on the Department of Ecology's website at <https://fortress.wa.gov/ecy/publications/SummaryPages/1802006.html>

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Purpose

The Washington State Department of Ecology (Ecology) provides the information in this implementation plan to meet agency and Administrative Procedure Act (RCW 34.05.328) requirements related to rule adoptions.

Introduction

On February 21, 2018, Ecology amended to Chapter 173-407 WAC Greenhouse Gas Mitigation Requirements and Emissions Performance Standard for Power Plants (AO # 16-12). Ecology revised the rule title in this rulemaking.

This rule implementation plan informs those who must comply with Chapter 173-407 WAC about how Ecology intends to:

- Implement and enforce the amendments.
- Inform and educate those affected by these amendments.
- Train those affected by these amendments how to voluntarily comply.
- Evaluate the amendments.
- Train and inform Ecology staff about the amended rule.

This plan also includes information about:

- Supporting documents that Ecology Air Quality Program may need to write or revise because of the new rule or amended rule.
- Other resources with more information about the rule.
- Contact information for Ecology employees who can answer questions about the rule implementation.

Implementation and Enforcement

Part I: Carbon Dioxide Mitigation Requirements

Permitting authorities, including Ecology and local clean air agencies, will implement and enforce Part I of this rule through permits issued to electric generating facilities located in their respective jurisdictions.

Ecology will assist the local clean air agencies in determining mitigation quantities, and as requested, assist in determining the applicability and acceptability of mitigation plans. Ecology will also assist the local clean air agencies on enforcement of noncompliance with the Part I requirements.

Upon request, Ecology will assist the Energy Facility Site Evaluation Council (EFSEC) with their mitigation requirements on their list of independent qualified organizations and evaluating applicant controlled mitigation programs. However, Ecology is unable to enforce EFSEC requirements.

Part II: Greenhouse Gas Emissions Performance Standard and Sequestration Plans and Programs

Ecology will continue to implement and enforce Part II of this rule. Only Ecology implements the requirements in Part II. The underlying law, Chapter 80.80 RCW, does not allow delegation of the Part II and III requirements to the local clean air agencies.

Ecology will track the applicability of the requirements, and as necessary, will directly inform the project owners of the requirements and how to comply.

For projects that are unable to comply with the Part II requirements, Ecology will work with the permitting authority and the facility to determine how to comply or work with the permitting authority to stop the project.

Depending on the type of electric utilities involved, the following agencies may enforce the Part II requirements on a long term financial commitment:

- Utilities and Transportation Commission (UTC) for the investor-owned electric utilities.
- State Attorney General for consumer-owned electric utilities.
- Ecology for other baseload electric generation or cogeneration facilities or units.

Part III: Long-Term Financial Commitments; Ecology's Consultation with UTC and Consumer-owned Utilities

Upon request by the UTC or a consumer-owned electric utility, we provide consultation on applicability and the compliance of new long-term financial commitments under consideration by the UTC or a consumer-owned electric utility.

Informing and Educating Persons Affected by the Rule

The parties affected by the rule amendments include:

- The public
- Owners of electric generation/cogeneration facilities
- Consumer-owned utilities
- Investor-owned utilities.

To help inform and educate the affected parties, Ecology will do the following:

- Distribute the adoption packet with final rule, Concise Explanatory Statement, Rule adoption form, Implementation Plan and other relevant information to all interested and affected parties.
- Post the news release upon rule adoption.
- Post the adoption packet on the rulemaking webpage for public access.
- Provide training to any affected party or group as necessary on how regulatory agencies will implement and enforce the rule
- Develop implementation guidance as necessary and post on <https://www.ecology.wa.gov/Air-Climate/Air-quality/Business-industry-requirements/GHG-standards-for-power-plants>.

Promoting and Assisting Voluntary Compliance

Compliance with the carbon dioxide mitigation requirements and greenhouse gases emissions performance standard is mandatory for facilities meeting the applicability requirements in this rule.

The actions listed in the last section of this document for informing and educating affected persons can promote and assist compliance. Additionally, Ecology Air Quality Program staff are available to provide technical assistance for affected parties to comply with amendments of this rule. Ecology will also work with applicants on project compliance methods, including:

- Construction of electric generating units/power plants that comply with the emission performance standard without sequestration required.
- Contracting with existing electric generating units/power plants that comply with the emission performance standard.
- Provide permanent sequestration of greenhouse gas emissions from the affected electric generating units/power plants.
- Combination of these approaches.

Evaluating the Rule

This rule and its authorizing state laws are subject to periodic review.

Chapter 80.80 RCW requires Ecology to evaluate the continuing need, applicability and effectiveness of the greenhouse gas emissions performance standard under Chapter 80.80 RCW and the mitigation program under Chapter 80.70 RCW in a report to the legislature every five years.

Washington Department of Commerce (Commerce) evaluates and may adopt a new greenhouse gas emissions performance standard every five years. Commerce completed this review and adoption of a new greenhouse gas emission performance standard in 2013. In this rulemaking, Ecology revised its rule to simplify future adoptions of the new standards in Commerce's rule into this rule. Ecology will evaluate the effectiveness of this change when Commerce next updates the standard in 2018.

Chapter 80.70 RCW allows the Energy Facility Site Evaluation Council (EFSEC) to adjust the carbon dioxide mitigation rate in Part I every two years. EFSEC may increase or decrease the value by up to 50 percent every time, considering, but not limited to, the current market price of a ton of carbon dioxide. To date, EFSEC has not updated the mitigation rate.

Through implementation of the amended rule, Ecology will collect feedback from the affected facilities and utilities to evaluate effectiveness of these changes.

Training and Informing Ecology Staff

Air Quality Program engineering staff have reviewed and provided inputs on the rule revisions. We will make the information on the rule revisions available on the rulemaking website, and the Chapter 173-407 WAC web page.

List of Supporting Documents that May Need to be Written or Revised

The Air Quality Program will provide an updated presentation with rule implementation guidance. The program does not need to revise any other supporting documents or develop any new documents for this rule revision.

More Information

Chapter 173-407 WAC Rulemaking Webpage: <https://www.ecology.wa.gov/Air-Climate/Air-quality/Business-industry-requirements/GHG-standards-for-power-plants>

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