



DEPARTMENT OF
ECOLOGY
State of Washington

**Rule Implementation Plan
Chapter 173-443 WAC,
Hydrofluorocarbons (HFC)**

Fourth Emergency Rulemaking

June 2020

Publication 20-02-014

Publication and Contact Information

This document is available on the Department of Ecology's website at:
<https://fortress.wa.gov/ecy/publications/summarypages/2002014.html>

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Rule Implementation Plan

Chapter 173-443 WAC Hydrofluorocarbons (HFCs)

Fourth Emergency Rulemaking

Air Quality Program

Washington State Department of Ecology

Olympia, Washington

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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

Ecology adopted a fourth emergency rule, Chapter 173-443 WAC, Hydrofluorocarbons (HFCs) (AO # 19-04) to implement and enforce the requirements of Chapters 70.235 RCW (see Chapter 284, Laws of 2019 (ESSHB 1112)). The rule establishes requirements to reduce greenhouse gases in Washington by moving to a phased use of less-damaging HFCs or suitable substitutes.

The emergency rule requires manufacturers, importers, and distributors to notify Ecology about their products and equipment containing HFCs and other substitutes. The initial deadline was December 31, 2019. More notifications are due when new restrictions apply between 2020 and 2024.

We changed the restriction deadline for vending machines from January 1, 2020, to January 1, 2022 in the first emergency rule. We continue to adopt the 2022 date because we determined that the new date reduces the overall risk to human health and the environment. It also reflects the earliest date that a lower risk substitute is potentially available as allowed by RCW 70.235.080(3)(a).

The emergency rule will be in effect for up to 120 days starting June 25, 2020, replacing the one adopted on March 16, 2020. There are no rule changes from the previous emergency rules.

Ecology adopted the following emergency rules:

- First emergency rule: July 30, 2019 (WSR 19-16-059)
- Second emergency rule: November 21, 2019 (WSR 19-24-005)
- Third emergency rule: March 16, 2020 (WSR 20-07-076)

Ecology began a rulemaking process for the permanent adoption of the rule when we filed the first emergency rule. We will continue to adopt an emergency rule until the permanent rule takes effect by December 2020.

This rule implementation plan informs those who must comply with Chapter 173-443 WAC about how Ecology intends to:

- Implement the rule.
- Inform and educate persons affected by the rule.

- Promote and assist voluntary compliance with the rule.
- Evaluate the rule.
- Train and inform Ecology staff about the new or amended rule.

Also included in this plan is information about:

- Supporting documents that may need to be written or revised because of the new rule or amended rule.
- Other resources where more information about the rule is available.
- Contact information for Ecology employees who can answer questions about the rule implementation.

Implementation and Enforcement

The rule applies globally to all manufacturers, importers, and distributors with a presence in Washington. It is implemented by Ecology through staff in the Climate Policy Section of the Air Quality Program in Lacey.

Initial notifications about the use of HFCs for all manufacturers, importers, distributors, and all covered products were due to Ecology by December 31, 2019. A status update notification is due to Ecology within 120 days after an applicable restriction date takes effect. The first restriction deadline was January 1, 2020, and the first status update notifications were due April 30, 2020.

Affected parties must submit the notification forms electronically. Information on electronic submittals can be found on our HFC webpage.¹

Informing and Educating Persons Affected by the Rule

Ecology created an online form for the initial notification and the subsequent status update notification, the “Washington HFC Reduction Program: Product Manufacturer Notification.” Affected parties should check the HFC webpage² for instructions. For the initial notification in WAC 173-443-040, each manufacturer, importer, distributor, or its representative must have completed and returned the form by December 31, 2019.

To inform and educate persons affected by the rule to meet this deadline, Ecology is maintaining a stakeholder list and a Listserv (email distribution list). Ecology sent the stakeholders and trade associations a link to access the online notification form and held a webinar on

¹ <https://ecology.wa.gov/Air-Climate/Climate-change/Carbon-reduction-targets/Hydrofluorocarbons>

² Ibid., 2.

September 11, 2019. The webinar informed affected parties about how to complete the form and submit it electronically.

For status update requirements in WAC 173-443-050, manufacturers, importers, and distributors must provide Ecology with a status update notification within 120 days after triggering an applicable product restriction date. Ecology will send parties affected by each subsequent restriction a link to access the online notification form. Ecology has posted a list of manufacturers, importers, and distributors that submitted their initial notification on the HFC webpage.

Promoting and Assisting Voluntary Compliance

Ecology continues to promote voluntary compliance through technical assistance when manufacturers, importers, distributors, or their representatives need help.

The Climate Policy Section (CPS) is providing technical assistance. CPS has identified key staff (see [Contact Information](#) below) to respond to technical questions.

The actions mentioned above to inform and educate affected parties also help to promote voluntary compliance. Program staff are available to respond to inquiries.

Evaluating the Rule

Ecology will monitor rule impacts. We will evaluate the rule during the 120-day implementation period and revise it if necessary. There are no changes to the rule from the previous emergency rule adoption.

We will track the number of late notifications as an indicator of the effectiveness of the rule. Excessive late reporting will result in programmatic changes for greater compliance.

Changes to the form and other sections of the rule may happen during the permanent rulemaking process, depending on comments from stakeholders.

Training and Informing Ecology Staff

Ecology staff responsible for implementing this rule work directly with the affected persons and are already familiar with the nuances of the rule. We are available to coach other Ecology staff on rule implementation.

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

Ecology developed the notification form, “Washington HFC Reduction Program: Product Manufacturer Notification.” We may need to revise the form depending on stakeholder comments during the permanent rulemaking process.

More Information

- HFC distribution list³ to receive updates about this and the permanent rulemaking
- HFC rulemaking webpage⁴ for rulemaking activities
- HFC webpage⁵ for information about our HFC transition
- Significant New Alternatives Policy (SNAP) Program⁶ for information about EPA’s program
- Washington HFC Reduction Program: Product Manufacturer Notification⁷ for the online notification form

Contact Information

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³ <http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?A0=HYDROFLUOROCARBONS-HFCS>

⁴ <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC173-443>

⁵ <https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/Reducing-greenhouse-gases/Hydrofluorocarbons>

⁶ <https://www.epa.gov/snap>

⁷ <https://fortress.wa.gov/ecy/publications/SummaryPages/ECY070608.html>