



PROPOSED RULE MAKING

CR-102 (August 2017) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 04, 2017
TIME: 6:31 AM

WSR 17-20-099

Agency: Department of Ecology AO # 16-12

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 17-05-029 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).
- Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 173-407 WAC - Carbon Dioxide Mitigation Program, Greenhouse Gases Emissions Performance Standard and Sequestration Plans and Programs for Thermal Electric Generating Facilities.

This rule requires power plants and units to:

- Reduce carbon dioxide emissions (CO₂ mitigation; Part I).
- Meet the greenhouse gas emissions performance standard (Part II).
- Develop and implement plans or programs to reduce greenhouse gases as approved by Ecology (Part II).

This rule also describes Ecology's consultation with Utilities and Transportation Commission and consumer-owned utilities (Part III).

Most of changes in this rulemaking only apply to new power plants and units, and existing power plants and units that change ownership, upgrade with an increase in heat input or fuel usage, or sign a new long-term financial commitment (such as power purchase agreements and plant purchases).

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|------------------|---------|---|---|
| November 7, 2017 | 2:00 pm | Webinar and in person at Department of Ecology Headquarters, 300 Desmond Drive SE, Lacey WA 98503 | <p>Presentation, question and answer session followed by the formal public hearing.</p> <p>We are also holding this hearing via webinar. This is an online meeting forum that you can attend from any computer using internet access.</p> <p>To join the webinar click on the following link for more information and instructions: https://watech.webex.com/watech/onstage/g.php?MTID=e4d9f2cb8c73703a13295ee4999130d45 For audio only, call US toll number +1-240-454-0887 and enter access code 809 694 382. Or to receive a free call back, provide your phone number when you join the event.</p> |

Date of intended adoption: February 21, 2018 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Caroline (Ying) Sun
Address: Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600
Email: Please submit comments online or by mail.

Fax: N/A

Other: Submit comments online at: <http://ac.ecology.commentinput.com/?id=HbNcY>

By (date) November 14, 2017

Assistance for persons with disabilities:

Contact Hanna Waterstrat

Phone: (360) 407-7668

Fax: N/A

TTY: (877) 833-6341

Email: hanna.waterstrat@ecy.wa.gov

Other: (711) Relay Service

By (date) October 31, 2017

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Ecology is proposing to amend Chapter 173-407 WAC for the following reasons:

- To comply with RCW 80.80.040 by adopting the most recent greenhouse gas emissions performance standard (standard) from WAC 194-26-020.
- To simplify future updates to the standard by referencing WAC 194-26-020 for any new standard implemented after the effective date of this rule.
- To be consistent with greenhouse gas emissions reporting required by EPA and Chapter 173-441 WAC by replacing the carbon dioxide conversion factors in Part I of this rule with the emission factors from 40 C.F.R., Part 98, Table C-1.
- To reduce unnecessary monitoring requirements by allowing certain facilities that are subject to the standard to have the option to use carbon dioxide emission factors from 40 C.F.R. Part 98, Table C-1.
- To reduce unnecessary emission testing requirements by allowing facilities that become subject to the standard after the effective date of this rule to have the option to use methane and nitrous oxide emission factors from 40 C.F.R. Part 98, Table C-2.
- To align this rule with Chapters 80.70 and 80.80 RCW.
- To make technical clarifications, correct errors, and improve readability.

Reasons supporting proposal: See answer to Purpose of the proposal and its anticipated effects.

Statutory authority for adoption: Chapters 80.70 and 80.80 RCW

Statute being implemented: Chapters 80.70 and 80.80 RCW

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: (person or organization) Department of Ecology

Private

Public

Governmental

| Name of agency personnel responsible for: | | | |
|--|---|-----------------|----------------|
| | Name | Office Location | Phone |
| Drafting: | Caroline (Ying) Sun | Lacey | (360) 407-7528 |
| Implementation: | Part I: by Ecology and local clean air agencies | Lacey | (360) 407-6000 |
| | Parts II and III: by Ecology only | | |
| Enforcement: | Part I: by Ecology and local clean air agencies | Lacey | (360) 407-6000 |
| | Parts II and III: by Ecology only | | |

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Caroline (Ying) Sun
Address: Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600
Phone: (360) 407-7528
Fax: N/A
TTY: (877) 833-6341
Email: caroline.sun@ecy.wa.gov
Other: N/A

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4).

Explanation of exemptions, if necessary: Ecology has determined the proposed rule does not impact small businesses. After looking at Employment Security data for number of employees, we determined that the businesses regulated by this chapter do not meet the definition of small business in RCW 19.85.020(3)


COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Caroline (Ying) Sun
 Address: Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600
 Phone: (360) 407-7528
 Fax: N/A
 TTY: (877) 833-6341
 Email: caroline.sun@ecy.wa.gov
 Other:

| | |
|---------------------------------|---|
| Date: September 21, 2017 | Signature:  |
| Name: Polly Zehm | |
| Title: Deputy Director | |