



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: February 21, 2018
TIME: 8:26 AM

WSR 18-05-091

Agency: Department of Ecology AO # 16-12

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (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: Ecology is adopting amendments to Chapter 173-407 WAC Greenhouse Gas Mitigation Requirements and Emissions Performance Standard for Power Plants (Ecology revised the rule title in this rulemaking).

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 the 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).

Citation of rules affected by this order:

- New:
- Repealed:
- Amended: Chapter 173-407 WAC
- Suspended:

Statutory authority for adoption:

Chapter 80.70 RCW for WAC 173-407-006 through 173-407-090
Chapter 80.80 RCW for WAC 173-407-005, WAC 173-407-006, and WAC 173-407-100 through 173-407-320

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-20-099 on October 04, 2017 (date).
Describe any changes other than editing from proposed to adopted version:

WAC 173-407-005

- In subsection (a), change “WAC 173-407-010 through 173-407-090” to “WAC 173-407-010 through 173-407-080” to match with the sections included in Part I.
- In subsection (c), change “WAC 173-407-300 through 173-407-400” to “WAC 173-407-300 through 173-407-320” to match with the sections included in Part III.

WAC 173-407-006

- Replace the “adoption date of this rule in February 2018” with “February 21, 2018,” the actual rule adoption date, to make the rule easier to understand.

WAC 173-407-050 (1)

- Add “...” in the equation because it was mistakenly removed.

- In subsection (e), move “in effect on the date in WAC 173-407-006” to directly after “Table C-1” to connect the date reference to what it applies to.

WAC 173-407-060 (1)(a)

- Add “The facility does not need to submit any mitigation plan if the calculated mitigation quantity is less than or equal to zero.” to provide clarification.

WAC 173-407-120 (1)(a)

- Add “commercial” in front of operation to match with the defined term in WAC 173-407-110.

WAC 173-407-130 (2)

- Replace the “rule effective date, March 2018” with “March 24, 2018,” the actual rule effective date, to make the rule easier to understand.
- Replace the “the day before the rule effective date, March 2018” with “March 23, 2018” to make the rule easier to understand.

WAC 173-407-130 (3)(b)

- Change “sequestration method” to “sequestration methods” because we mistakenly changed the term to singular in the proposed language.

WAC 173-407-160 (formerly WAC 173-407-230)

- Replace the “effective date of this rule in March 2018” with “March 24, 2018,” the actual rule effective date, throughout this section to make the rule easier to understand.
- In subsection (1)(c)(iv)(B), add “and produces” in front of “less than 25 MW of electricity” because it was mistakenly omitted.

WAC 173-407-200 (1)

- Add “to ecology” to clarify who the facility should submit the sequestration plan to.
- Add “propose to” before “begin sequestration” to clarify when the facility should submit the sequestration plan.

WAC 173-407-200 (2)

- Add “propose to” before “begin sequestration” to clarify when the facility should submit the sequestration plan.

WAC 173-407-220

- Add “to” before “ecology” in the first paragraph of this section because it was mistakenly omitted.
- In subsection (1)(b)(ii)(D), change “volume” to “quantity” to correct the wording used in the rule.

WAC 173-407-240

- Add “Note: Ecology is the agency responsible for enforcing this section.” to provide clarification that Ecology is the authorizing agency for enforcing Part II of this rule.
- Revise subsection (4) to read “Enforcement of a violation of notice of an order of approval must follow the requirements of chapter 70.94 RCW, as implemented by the permitting authority....” to provide clarification.

WAC 173-407-320 (1)

- Add “in effect at the time the long-term financial commitment is signed” to provide clarification.

Please see the Concise Explanatory Statement for rule language changes from passive voice to active voice.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available 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

**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>3</u> | Repealed | ___ |

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

| | | | | | |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

The number of sections adopted on the agency's own initiative:

| | | | | | |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>2</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|----------|---------|-----------|----------|----------|
| New | <u>2</u> | Amended | <u>22</u> | Repealed | <u>1</u> |
|-----|----------|---------|-----------|----------|----------|

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: 2/21/2018

Name: Maia D. Bellon

Title: Director

Signature:

