

WAC 173-407-060 Carbon dioxide mitigation plan requirements and options under Part I. (1) Mitigation plan requirements.

(a) The facility must mitigate the quantity of CO₂ emissions determined by WAC 173-407-050 (4) or (5) as applicable. The facility must have an approved CO₂ mitigation plan as part of the order of approval. The facility does not need to submit any mitigation plan if the calculated mitigation quantity is less than or equal to zero.

(b) The facility must implement the mitigation plan based on the schedule in the order of approval. A facility may request an extension of the schedule by submitting a written request to the permitting authority before applicable deadline(s). The request must propose a revised schedule and document why the facility needs more time to implement the mitigation plan.

(2) Mitigation plan options. An applicant for a fossil-fueled thermal electric generation facility must include one or a combination of the following CO₂ mitigation options as part of its mitigation plan:

(a) Payment to a third party to provide mitigation;

(b) Direct purchase of permanent carbon credits; or

(c) Investment in applicant-controlled CO₂ mitigation projects, including combined heat and power (cogeneration).

(3) Requirements of the payment to a third-party option.

(a) The initial mitigation rate is \$1.60 per metric ton of CO₂ to be mitigated. For a cogeneration plant, the monetary amount is based on the difference between twenty percent of the total carbon dioxide emissions and the cogeneration credit. This rate will change when EF-SEC adjusts it through the process described in RCW 80.70.020 (5) (a) and (b).

$$\text{Total payment amount} = \text{Mitigation rate} \times \text{Mitigation quantity}$$

(b) An applicant may choose between a lump sum payment and partial payments over a period of five years.

(i) The applicant must pay the lump sum payment amount to the independent qualified organization no later than one hundred twenty days after the start of commercial operation.

(ii) The applicant must make partial payments to the independent qualified organization in five equal payments over five years. The applicant must pay the first twenty percent of the total payment to the independent qualified organization no later than one hundred twenty days after the start of commercial operation. An applicant must make a payment of the same amount (or an adjusted amount if the rate is changed under RCW 80.70.020 (5) (a)) by the anniversary date of the initial payment for the next four consecutive years. The facility must provide a letter of credit or comparable security for the remaining 80 percent at the time of the first payment. The letter of credit or comparable security must include possible rate changes.

(4) Requirements of the permanent carbon credits option. The applicant must acquire permanent carbon credits equaling the mitigation quantity as calculated in WAC 173-407-050(4), unless the power plant permanently ceases operation. The permanent carbon credits must meet the following criteria:

(a) Credits must derive from real, verified, permanent, and enforceable CO₂ or CO₂ equivalents emission mitigation not otherwise required by statute, regulation, or other legal requirements;

(b) The credits must be acquired after July 1, 2004;

(c) The credits may not have been used for other CO₂ mitigation projects; and

(d) The credits purchased for CO₂ mitigation must not be resold unless approved by the permitting authority. The permitting authority must determine the permanent carbon credits proposed for resale are offset by other CO₂ mitigation method(s). Facilities that cease operation may sell their carbon credits without replacement.

(5) Applicant controlled mitigation projects option. The facility may invest directly in mitigation projects. The permitting authority cannot require the direct investment cost of the applicant controlled mitigation project, including funds used for selection, monitoring, and evaluation of mitigation projects, to exceed the cost of the total payment to a third party per WAC 173-407-060(3).

The applicant controlled mitigation project must be:

(a) Conducted directly by or under the control of the order of approval holder.

(b) Approved by the permitting authority and included as a condition of the order of approval.

(c) Operational within one year after the start of commercial operation. Failure to implement an approved mitigation plan is subject to enforcement under WAC 173-407-080.

(d) The order of approval holder may not use more than twenty percent of the total funds for the selection, monitoring, and evaluation of mitigation projects, and the management and enforcement of contracts.

[Statutory Authority: Chapter 80.70 RCW. WSR 18-05-091 (Order 16-12), § 173-407-060, filed 2/21/18, effective 3/24/18. Statutory Authority: Chapter 80.80 RCW. WSR 08-14-011 (Order 07-11), § 173-407-060, filed 6/19/08, effective 7/20/08. Statutory Authority: RCW 70.94.892 and chapter 80.70 RCW. WSR 05-01-237 (Order 03-09), § 173-407-060, filed 12/22/04, effective 1/22/05.]