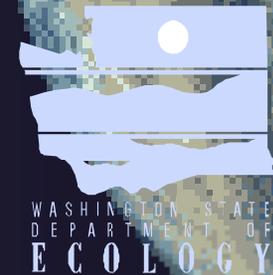


Changes to Chapter 173-400 WAC, General Regulations

Rule Advisory Committee
Meeting 2

May 21, 2009



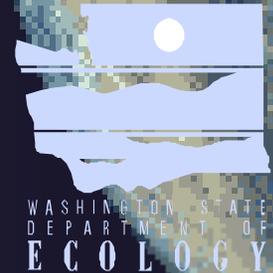
Section 107 - Excess Emissions



WASHINGTON STATE
DEPARTMENT OF
ECOLOGY

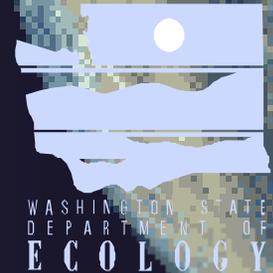
Ecology's Point of View

- We recognize that the current 107 needs updating.
- EPA wants states to adopt the provisions of the 1999 Herman guidance into state rules.
- We also understand that a guidance document is in fact guidance not a rule.



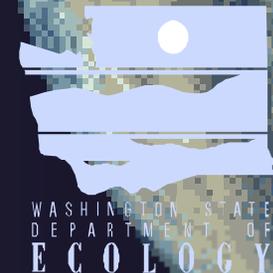
What We Heard about Current Practices

- Not all claims are accepted by permitting authorities
- Sources do not claim that all violations are attributed to excess emissions
- We know of no NAAQS violations due to excess emissions



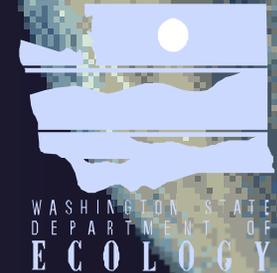
What We Heard at the Last Meeting – Current Practices (2)

- Many but not all permitting agencies treat excess emissions reports similarly
 - Is this a rule problem or an implementation problem?
 - How can we clear this up?



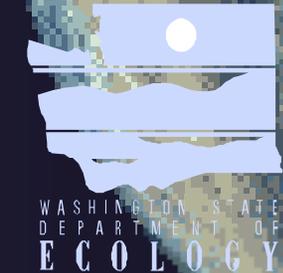
Matt Cohen's Research

- Matt and industry representatives met with AQP on May 6.
- 2001 Memo
- Recent inconsistencies by EPA
 - Four Corners Power Plant
 - Alaska



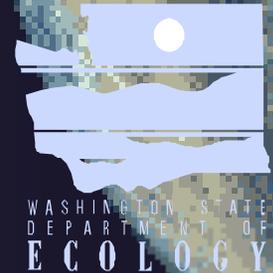
2001 EPA Settlement Agreement About Existing SIPs with Excess Emissions Provisions

- The 1999 Herman guidance does not force states to submit new excess Emissions SIP. The current ones remain in effect.
- It does provide a framework for EPA to approve new provisions with a new SIP submittal.



Four Corners Power Plant

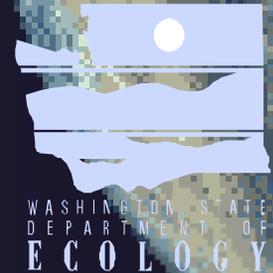
- On April 14, 2009 the Tenth Circuit Court upheld EPA's 2006 FIP on this plant.
- The excess emissions provisions are not written in strict compliance with the 1999 Herman policy.



Alaska SIP on Excess Emissions

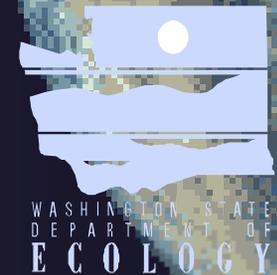
On August 14, 2007 approved into
Alaska's SIP excess emissions
provisions that look a lot like the current
rule language in WAC 173-400-107.

(Federal Register, volume 72, number 156, page 45378)



Suggestions?

Once we start making changes,
what should these be?



Next Steps

Within a few weeks I will be sending out a 1st draft of changes to 107 for your review. Please be prepared to discuss that draft next time.

