

Chapter 463-78 WAC

GENERAL AND OPERATING PERMIT REGULATIONS FOR AIR POLLUTION SOURCES

Last Update: 10/11/04

WAC

463-78-005	Adoption by reference.
463-78-010	Purpose.
463-78-020	Applicability.
463-78-030	Additional definitions.
463-78-070	Radioactive emissions.
463-78-090	Permit application form.
463-78-095	Permit issuance.
463-78-100	Registration.
463-78-105	Fees and costs.
463-78-115	Standards of performance for new stationary sources.
463-78-120	Monitoring and special report.
463-78-135	Criminal penalties.
463-78-140	Appeals procedure.
463-78-170	Conflict of interest.
463-78-230	Regulatory actions.

WAC 463-78-005 Adoption by reference. (1) The energy facility site evaluation council adopts the following provisions of chapter 173-400 WAC, in effect on July 1, 2003, by reference.

030:	WAC 173-400- Definitions.
035:	WAC 173-400- Portable and temporary sources.
040:	WAC 173-400- General standards for maximum emissions.
050:	WAC 173-400- Emission standards for combustion and incineration units.
060:	WAC 173-400- Emission standards for general process units.
075:	WAC 173-400- Emission standards for sources emitting hazardous air pollutants.
081:	WAC 173-400- Startup and shutdown.
091:	WAC 173-400- Voluntary limits on emissions.
105:	WAC 173-400- Records, monitoring, and reporting.
107:	WAC 173-400- Excess emissions.
110:	WAC 173-400- New source review (NSR).
112:	WAC 173-400- Requirements for new sources in nonattainment areas.
113:	WAC 173-400- Requirements for new sources in attainment or unclassifiable areas.

114:	WAC 173-400-	Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.
117:	WAC 173-400-	Special protection requirements for federal Class I areas.
120:	WAC 173-400-	Bubble rules.
131:	WAC 173-400-	Issuance of emission reduction credits.
136:	WAC 173-400-	Use of emission reduction credits.
141:	WAC 173-400-	Prevention of significant deterioration (PSD).
151:	WAC 173-400-	Retrofit requirements for visibility protection.
161:	WAC 173-400-	Compliance schedules.
171:	WAC 173-400-	Public involvement.
180:	WAC 173-400-	Variance.
190:	WAC 173-400-	Requirements for nonattainment areas.
200:	WAC 173-400-	Creditable stack height and dispersion techniques.
205:	WAC 173-400-	Adjustment for atmospheric conditions.

(2) The energy facility site evaluation council adopts the following provisions of chapter 173-401 WAC, in effect on July 1, 2003, by reference.

100:	WAC 173-401-	Program overview.
200:	WAC 173-401-	Definitions.
300:	WAC 173-401-	Applicability.
500:	WAC 173-401-	Permit applications.
510:	WAC 173-401-	Permit application form.
520:	WAC 173-401-	Certification.
530:	WAC 173-401-	Insignificant emission units.
531:	WAC 173-401-	Thresholds for hazardous air pollutants.
532:	WAC 173-401-	Categorically exempt insignificant emission units.
533:	WAC 173-401-	Units and activities defined as insignificant on the basis of size or production rate.

WAC 173-401- Permit content.
 600:
 WAC 173-401- Emission standards and
 605: limitations.
 WAC 173-401- Permit duration.
 610:
 WAC 173-401- Monitoring and related
 615: recordkeeping and reporting
 requirements.
 WAC 173-401- Standard terms and conditions.
 620: Except (2)(i).
 WAC 173-401- Federally enforceable
 625: requirements.
 WAC 173-401- Compliance requirements.
 630:
 WAC 173-401- Temporary sources.
 635:
 WAC 173-401- Permit shield.
 640:
 WAC 173-401- Emergency provision.
 645:
 WAC 173-401- Operational flexibility.
 650:
 WAC 173-401- Action on application.
 700:
 WAC 173-401- Requirement for a permit.
 705:
 WAC 173-401- Permit renewal, revocation and
 710: expiration.
 WAC 173-401- Administrative permit
 720: amendments.
 WAC 173-401- Changes not requiring permit
 722: revisions.
 WAC 173-401- Permit modifications.
 725:
 WAC 173-401- Reopening for cause.
 730:
 WAC 173-401- General permits.
 750:
 WAC 173-401- Public involvement.
 800:
 WAC 173-401- EPA Review.
 810:
 WAC 173-401- Review by affected states.
 820:

(3) The energy facility site evaluation council adopts the following provisions of chapter 173-406 WAC, in effect on July 1, 2003, by reference.

Part I - GENERAL PROVISIONS

WAC 173-406- Acid rain program general
 100: provisions.

- WAC 173-406- Definitions.
- 101:
- WAC 173-406- Measurements, abbreviations,
- 102: and acronyms.
- WAC 173-406- Applicability.
- 103:
- WAC 173-406- New units exemption.
- 104:
- WAC 173-406- Retired units exemption.
- 105:
- WAC 173-406- Standard requirements.
- 106:

Part II - DESIGNATED REPRESENTATIVE

- WAC 173-406- Designated representative.
- 200:
- WAC 173-406- Submissions.
- 201:
- WAC 173-406- Objections.
- 202:

Part III - APPLICATIONS

- WAC 173-406- Acid rain permit applications.
- 300:
- WAC 173-406- Requirement to apply.
- 301:
- WAC 173-406- Information requirements for
- 302: acid rain permit applications.
- WAC 173-406- Permit application shield and
- 303: binding effect of permit
- application.

Part IV - COMPLIANCE PLAN

- WAC 173-406- Acid rain compliance plan and
- 400: compliance options.
- WAC 173-406- General.
- 401:
- WAC 173-406- Repowering extensions.
- 402:

Part V - PERMIT CONTENTS

- WAC 173-406- Acid rain permit.
- 500:
- WAC 173-406- Contents.
- 501:
- WAC 173-406- Permit shield.
- 502:

Part VI - PERMIT ISSUANCE

- WAC 173-406- Acid rain permit issuance
- 600: procedures.
- WAC 173-406- General.
- 601:

- WAC 173-406- Completeness.
- 602:
- WAC 173-406- Statement of basis.
- 603:
- WAC 173-406- Issuance of acid rain permits.
- 604:
- WAC 173-406- Acid rain permit appeal procedures.
- 605:

Part VII - PERMIT REVISIONS

- WAC 173-406- Permit revisions.
- 700:
- WAC 173-406- General.
- 701:
- WAC 173-406- Permit modifications.
- 702:
- WAC 173-406- Fast-track modifications.
- 703:
- WAC 173-406- Administrative permit amendment.
- 704:
- WAC 173-406- Automatic permit amendment.
- 705:
- WAC 173-406- Permit reopenings.
- 706:

Part VIII - COMPLIANCE CERTIFICATION

- WAC 173-406- Compliance certification.
- 800:
- WAC 173-406- Annual compliance certification report.
- 801:
- WAC 173-406- Units with repowering extension plans.
- 802:

Part IX - NITROGEN OXIDES

- WAC 173-406- Nitrogen oxides emission reduction program.
- 900:

Part X - SULFUR DIOXIDE OPT-IN

- WAC 173-406- Sulfur dioxide opt-ins.
- 950:

(4) The energy facility site evaluation council adopts the following provisions of chapter 173-460 WAC, in effect on July 1, 2003, by reference.

- WAC 173-460- Purpose.
- 010:
- WAC 173-460- Definitions.
- 020:
- WAC 173-460- Requirements, applicability and exemptions.
- 030:
- WAC 173-460- New source review.
- 040:

050:	WAC 173-460-	Requirement to quantify emissions.
060:	WAC 173-460-	Control technology requirements.
070:	WAC 173-460-	Ambient impact requirement.
080:	WAC 173-460-	Demonstrating ambient impact compliance.
090:	WAC 173-460-	Second tier analysis.
100:	WAC 173-460-	Request for risk management decision.
110:	WAC 173-460-	Acceptable source impact levels.
120:	WAC 173-460-	Scientific review and amendment of acceptable source impact levels and lists.
130:	WAC 173-460-	Fees.
140:	WAC 173-460-	Remedies.
150:	WAC 173-460-	Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels.
160:	WAC 173-460-	Class B toxic air pollutants and acceptable source impact levels.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-005, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-005, filed 8/11/04, effective 9/11/04. Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-005, filed 8/21/95, effective 9/21/95; 94-16-031, § 463-39-005, filed 7/26/94, effective 8/26/94. Statutory Authority: RCW 80.50.040(1) and chapter 70.94 RCW. 93-23-035, § 463-39-005, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 80.50.040(1). 92-09-013, § 463-39-005, filed 4/2/92, effective 5/3/92.]

WAC 463-78-010 Purpose. The energy facility site evaluation council, under the authority vested in it by chapter 80.50 RCW and 40 C.F.R. Part 52 is charged with responsibilities for the conduct of a statewide program of air pollution prevention and control for energy facilities. This regulation provides the basic framework for carrying out the council's responsibilities for such a program through the establishment of standards for maximum permissible emissions, the implementation of registration and notice requirements, provision for monitoring and reporting, and the identification of regulatory actions which may be taken to enforce standards. This chapter is designed to operate within the statutory framework for the distribution of responsibilities between state, regional and local units of government in dealing with problems of air pollution.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-010, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1). 92-09-013, § 463-39-010, filed 4/2/92, effective 5/3/92; 79-09-006 (Order 79-1), § 463-39-010, filed 8/6/79.]

WAC 463-78-020 Applicability. The provisions of this chapter shall apply statewide for those sources under the jurisdiction of the energy facility site evaluation council. The provisions of this chapter shall not apply to those facilities incorporated by reference in chapters 173-400, 173-401, 173-406, and 173-460 WAC which are not under the jurisdiction of the energy facility site evaluation council.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-020, filed 10/11/04, effective 11/11/04.]

Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-020, filed 8/21/95, effective 9/21/95. Statutory Authority: RCW 80.50.040(1) and chapter 70.94 RCW. 93-23-035, § 463-39-020, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 80.50.040(1). 79-09-006 (Order 79-1), § 463-39-020, filed 8/6/79.]

WAC 463-78-030 Additional definitions. (1) "Council" means the energy facility site evaluation council.

(2) In addition to the definitions contained in WAC 173-400-030, 173-401-200, 173-406-101, "ecology," "authority," and "permitting agency" shall be synonymous with the energy facility site evaluation council unless a different meaning is plainly required by context.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-030, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-030, filed 8/11/04, effective 9/11/04. Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-030, filed 8/21/95, effective 9/21/95. Statutory Authority: RCW 80.50.040(1) and chapter 70.94 RCW. 93-23-035, § 463-39-030, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 80.50.040(1). 92-09-013, § 463-39-030, filed 4/2/92, effective 5/3/92; 79-09-006 (Order 79-1), § 463-39-030, filed 8/6/79.]

WAC 463-78-070 Radioactive emissions. (1) Energy facilities subject to chapter 80.50 RCW which emit radionuclides to the air shall meet standards and conditions pursuant to RCW 70.94.331, as promulgated by chapters 173-480 and 246-247 WAC.

(2) The council will enter into a memorandum of agreement with the state department of health regarding the regulation of radionuclides.

(3) The monitoring and regulation of radionuclides emissions from major energy facilities shall be consistent with the memorandum of agreement referenced in subsection (2) of this section between the state department of health and the council.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-070, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1). 94-16-031, § 463-39-070, filed 7/26/94, effective 8/26/94.]

WAC 463-78-090 Permit application form. (1) Applications

for air operating permits may be on the standard form(s) developed by the department of ecology and shall contain the information required pursuant to WAC 173-401-510(2).

(2) Applications for permits under chapter 173-406 WAC shall be on form(s) developed by the department of ecology.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-090, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-090, filed 8/11/04, effective 9/11/04.

Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-090, filed 8/21/95, effective 9/21/95; 94-16-031, § 463-39-090, filed 7/26/94, effective 8/26/94.]

WAC 463-78-095 Permit issuance. Permit(s) issued for air emissions in accordance with chapters 173-400, 173-401, 173-406, and 173-460 WAC shall become an attachment(s) to a site certification agreement. For new energy facilities the permit(s) shall be effective upon the governor's approval and execution of the site certification agreement.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-095, filed 10/11/04, effective 11/11/04.

Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-095, filed 8/21/95, effective 9/21/95.]

WAC 463-78-100 Registration. (1) The owner or operator of each stationary source subject to chapter 80.50 RCW shall register the source with the council. Stationary sources subject to chapter 173-401 WAC are not required to comply with these registration requirements.

Registration shall be on forms which have been adopted for use by the department of ecology within the time specified thereon.

A report of closure shall be filed with the council within ninety days after operations producing emissions permanently ceased at any source within the council's jurisdiction.

(2) The council shall ensure that the following, as it pertains to sources covered under this rule, is passed on to ecology in a timely manner for inclusion in its permit register:

- (a) Public meetings or hearings on draft operating permits;
- (b) Receipt of complete applications;
- (c) Permit appeals;
- (d) Issuance or denial of final permit, permit modifications, or renewals;
- (e) Authorization for a source to operate without an

operating permit by limiting its potential to emit to levels below those that would require the source to obtain an operating permit;

(f) Periodic summaries of enforcement order and changes made without revising the permit pursuant to WAC 173-401-722.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-100, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-100, filed 8/11/04, effective 9/11/04.

Statutory Authority: RCW 80.50.040(1) and chapter 70.94 RCW. 93-23-035, § 463-39-100, filed 11/10/93, effective 12/11/93.

Statutory Authority: RCW 80.50.040(1). 79-09-006 (Order 79-1), § 463-39-100, filed 8/6/79.]

WAC 463-78-105 Fees and costs. (1) Holders of air operating permits issued to major energy facilities in accordance with RCW 70.04.422 shall be assessed annual fees, by the council, to recover the costs associated with program development, monitoring, compliance, and administration of the air operating permit program.

(2) All fees recovered under the air operating permit program shall be deposited in the state air operating permit account.

(3) The council shall determine and assess fees for air operating permits based on the following:

(a) Sources which are located in counties having a local air authority shall be assessed fees based upon the fee structure set by that local air authority.

(b) Sources which are located in counties not having a local air authority, or are cogeneration facilities which provide steam and/or electricity to primary industries such as aluminum or pulp and paper mills, shall be assessed fees based upon the fee structure set by the department of ecology.

(c) Radioactive emissions sources shall be assessed fees consistent with the department of health fee structure.

(d) Department of ecology air operating permit program administration costs shall be charged to all sources under council jurisdiction.

(e) The council shall recover its actual costs for program administration as provided in WAC 463-58-050.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-105, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-105, filed 8/11/04, effective 9/11/04.

Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-105, filed 8/21/95, effective 9/21/95.]

WAC 463-78-115 Standards of performance for new stationary sources. (1) Title 40, Code of Federal Regulations, Part 60 (standards of performance for new stationary sources), in effect on July 1, 2003, as applicable to new stationary sources subject to chapter 80.50. RCW is by this reference adopted and incorporated herein with the exception listed in subsection (2) of this section. For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the council. The following list is provided for informational purposes only:

- | | |
|------------|--|
| Subpart A | General Provisions, except
CFR 60.5 and 60.6 |
| Subpart D | Fossil fuel fired steam
generators for which
construction commenced
after August 17, 1971, and
prior to September 19,
1978, which have a heat
input greater than 73
megawatts but not greater
than 350 megawatts |
| Subpart Da | Electric utility steam
generating units for which
construction commenced
after September 18, 1978,
which have greater than 73
megawatts but not greater
than 350 megawatts |
| Subpart J | Petroleum refineries which
produce less than 25,000
barrels per day of refined
products |
| Subpart K | Storage vessels for
petroleum liquid
constructed after June 11,
1973, and prior to May 19,
1978, which have a
capacity greater than 40,
000 gallons |
| Subpart Ka | Storage vessels for
petroleum liquids
constructed after May 18,
1978, which have a
capacity greater than
40,000 gallons |

Subpart Kb	Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984
Subpart Y	Standards for Performance for Coal Preparation Plants
Subpart GG	Stationary gas turbines
Subpart XX	Bulk gasoline terminals
Subpart GGG	Petroleum refineries – compressors and fugitive emission sources
Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants
Subpart LLL	Onshore natural gas processing; SO ₂ emissions
Subpart NNN	VOC emissions from SOCFI distillation operations
Subpart QQQ	VOC emissions from petroleum refinery wastewater emissions
Appendix A	Test Methods
Appendix B	Performance Specifications
Appendix C	Determination of Emission Rate Change
Appendix D	Required Emission Inventory Information
Appendix F	Quality Assurance Procedures

(2) Exceptions to adopting 40 CFR Part 60 by reference. Sections 60.5 and 60.6 are not incorporated herein because they provide for preconstruction review of new stationary sources only on request. By virtue of WAC 173-400-110, such review under the state program is mandatory and an order of approval is required before the construction, installation or establishment of a new stationary source may commence.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-115, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-115, filed 8/11/04, effective 9/11/04. Statutory Authority: RCW 80.50.040(1). 94-16-031, § 463-39-115, filed 7/26/94, effective 8/26/94; 92-09-013, § 463-39-115, filed 4/2/92, effective 5/3/92; 82-14-051 (Order 82-3), § 463-39-115, filed 6/30/82; 79-09-006 (Order 79-1), § 463-39-115, filed 8/6/79.]

WAC 463-78-120 Monitoring and special report. The department of ecology or its designee shall conduct a surveillance program to monitor the quality of the ambient atmospheres to concentrations and movements of air contaminants in accordance with the requirements of chapters 173-400, 173-401, 173-406, and 173-460 WAC.

As a part of this program, the director of the department of ecology or an authorized representative of the director may recommend that any source under the jurisdiction of the council conduct stack and/or ambient air monitoring, and to report the results to the council and department of ecology.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-120, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1). 95-17-088, § 463-39-120, filed 8/21/95, effective 9/21/95. Statutory Authority: RCW 80.50.040(1) and chapter 70.94 RCW. 93-23-035, § 463-39-120, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 80.50.040(1). 92-09-013, § 463-39-120, filed 4/2/92, effective 5/3/92; 79-09-006 (Order 79-1), § 463-39-120, filed 8/6/79.]

WAC 463-78-135 Criminal penalties. Persons in violation of this chapter may be subject to the provisions of chapter 80.50 RCW and RCW 70.94.422.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-135, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-135, filed 8/11/04, effective 9/11/04. Statutory Authority: RCW 80.50.040(1). 79-09-006 (Order 79-1), § 463-39-135, filed 8/6/79.]

WAC 463-78-140 Appeals procedure. Appeals from notices of violation issued by the council will be handled via the council's appellate review procedure as provided in WAC 463-54-070 (4) (c).

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-140, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1) and chapter 70.94 RCW. 93-23-035, § 463-39-140, filed 11/10/93, effective 12/11/93.]

WAC 463-78-170 Conflict of interest. No member of the

council shall have received, or has during the previous two years received, a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit under the jurisdiction of this council.

(1) For the purposes of this section, the term "member" includes any individual who has or shares authority to approve permit applications or portions thereof, either in the first instance or on appeal.

(2) For the purpose of this section, the term "permit holders or applicants for a permit" shall not include any department or agency of a state government.

(3) For the purposes of this section, the term "significant portion of his income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age and is receiving such portion pursuant to retirement pension or similar arrangement.

(4) For the purposes of this section, the term "income" includes retirement benefits, consultant fees and stock dividends.

(5) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" if it is derived from mutual fund payments or from other diversified investments over which the recipient does not know the identity of the primary source of income.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-170, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-170, filed 8/11/04, effective 9/11/04. Statutory Authority: RCW 80.50.040(1). 79-09-006 (Order 79-1), § 463-39-170, filed 8/6/79.]

WAC 463-78-230 Regulatory actions. The council may take any of the following regulatory actions to enforce this chapter to meet the provisions of RCW 80.50.040 or 70.94.422.

(1) Enforcement actions--Notice of violation. At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431 (1) through (7), the council shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or rule or regulation alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the council may require that the alleged violator or violators appear before it

for the purpose of providing information to the council pertaining to the violation or the charges complained of. Every notice of violation shall offer the alleged violator an opportunity to meet with the council prior to the commencement of enforcement action.

(2) Civil penalty.

(a) All penalties assessed as the result of air emission violations shall be consistent with RCW 70.94.332, 70.94.430, 70.94.431 (1) through (7), and 70.94.435. Any person who violates any of the provisions of chapter 70.94 RCW may incur a civil penalty in an amount as set forth in RCW 70.94.431. Each such violation shall be separate and distinct and, for a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty as set forth by RCW 70.94.431 for each day of continued noncompliance.

(b) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amount established in RCW 70.94.431 may be increased annually to account for inflation as determined by the state office of economic and revenue forecast council.

(c) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 70.94.422.

(d) All penalties recovered under this section by the council shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015.

(e) In addition to other penalties provided by this chapter, persons knowingly under-reporting emission or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(3) Assurance of discontinuance. The chair, or his/her authorized representative, may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to

perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) Restraining orders, injunctions. Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the council, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) Emergency episodes. The council may issue such orders as authorized by chapter 80.50 RCW, whenever an air pollution episode forecast is declared.

(6) Compliance orders. The council may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated.

[Statutory Authority: RCW 80.50.040 (1) and (12). 04-21-013, recodified as § 463-78-230, filed 10/11/04, effective 11/11/04; 04-17-058, § 463-39-230, filed 8/11/04, effective 9/11/04. Statutory Authority: RCW 80.50.040(1). 94-16-031, § 463-39-230, filed 7/26/94, eff