

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

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))~~ March 1, ((2003)) 2005, by reference. WAC 173-400-110(8) and 173-400-730(4) are not adopted 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.
175:	<u>WAC 173-400-</u>	<u>Public information.</u>
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.
700:	<u>WAC 173-400-</u>	<u>Review of major stationary sources of air pollution.</u>
710:	<u>WAC 173-400-</u>	<u>Definitions.</u>
720:	<u>WAC 173-400-</u>	<u>Prevention of significant deterioration (PSD).</u>
730:	<u>WAC 173-400-</u>	<u>Prevention of significant deterioration application processing procedures.</u>
740:	<u>WAC 173-400-</u>	<u>PSD permitting public involvement requirements.</u>
750:	<u>WAC 173-400-</u>	<u>Revisions to PSD permits.</u>

(2) The energy facility site evaluation council adopts the following provisions of chapter 173-401 WAC, in effect on ((July)) March 1, ((2003)) 2005, 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.
600:	WAC 173-401-	Permit content.
605:	WAC 173-401-	Emission standards and limitations.

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

(3) The energy facility site evaluation council adopts the following provisions of chapter 173-406 WAC, in effect on ((July)) March 1, ((2003)) 2005, by reference.

Part I - GENERAL PROVISIONS

- 100: WAC 173-406- Acid rain program general provisions.
- 101: WAC 173-406- Definitions.
- 102: WAC 173-406- Measurements, abbreviations, and acronyms.
- 103: WAC 173-406- Applicability.
- 104: WAC 173-406- New units exemption.

105: WAC 173-406- Retired units exemption.
WAC 173-406- Standard requirements.

106:
Part II - DESIGNATED REPRESENTATIVE

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

202:
Part III - APPLICATIONS

300: WAC 173-406- Acid rain permit applications.
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

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

402:
Part V - PERMIT CONTENTS

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

502:
Part VI - PERMIT ISSUANCE

600: WAC 173-406- Acid rain permit issuance
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~~
605: ~~procedures.~~)

Part VII - PERMIT REVISIONS

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

Part VIII - COMPLIANCE CERTIFICATION

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

Part IX - NITROGEN OXIDES

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

Part X - SULFUR DIOXIDE OPT-IN

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

(4) The energy facility site evaluation council adopts the following provisions of chapter 173-460 WAC, in effect on ((July)) March 1, ((2003)) 2005, by reference.

- 010: WAC 173-460- Purpose.
- 020: WAC 173-460- Definitions.
- 030: WAC 173-460- Requirements, applicability and exemptions.
- 040: WAC 173-460- New source review.
- 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.
	WAC 173-460-	Fees.
130:	WAC 173-460-	Remedies.
140:	WAC 173-460-	Class A toxic air pollutants:
150:		Known, probable and potential human carcinogens and acceptable source impact levels.
	WAC 173-460-	Class B toxic air pollutants and acceptable source impact levels.
160:		

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

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, 173-400-710, 173-401-200, 173-406-101, "ecology," "authority," and "permitting (~~(agency)~~) authority" shall be synonymous with the energy facility site evaluation council unless a different meaning is plainly required by context.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-78-100 Registration. (1) Purpose. The registration program is used by the council to develop and maintain a current and accurate record of air contaminant sources subject to chapter 80.50 RCW. Information collected through the registration program is used to evaluate the effectiveness of air pollution strategies in collaboration with the department of ecology, and to verify source compliance with applicable air pollution requirements.

(2) Requirement to register. Except as provided in subsection (3) of this section, 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 the Operating permit regulation in 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.))~~ (3) The following sources are exempt from registration:

(a) A source that emits pollutants below the following emission rates:

<u>Pollutant</u>	<u>Tons/Year</u>
<u>Carbon monoxide</u>	<u>5.0</u>
<u>Nitrogen oxides</u>	<u>2.0</u>
<u>Sulfur dioxide</u>	<u>2.0</u>
<u>Particulate Matter (PM)</u>	<u>1.25</u>
<u>Fine Particulate (PM10)</u>	<u>0.75</u>
<u>Volatile Organic Compounds (VOC)</u>	<u>2.0</u>
<u>Lead</u>	<u>0.005</u>

i and

(b) A source or emission unit that does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.

(4) Initial registration. The owner or operator of a source that exists on the effective date of this rule must register the source with the council by no later than one year after the effective date of this rule. The owner or operator of a new source must register with the council within ninety days after beginning operation.

(5) Annual reregistration. After initial registration, the owner or operator of a source must reregister with the council by February 15 of each year. The reregistration must include all of the information required in the initial registration and must be updated to reflect any changes to such information since the previous registration. For information that has not changed since the previous registration, the owner or operator may reaffirm in writing the correctness and current status of the information previously furnished to the council.

(6) Registration format. Registration shall be in a format approved by the council. Each registration submittal shall include the following information:

(a) Name of the source and the nature of the business;

(b) Street address, telephone number, facsimile number, and e-mail address of the source;

(c) Name, mailing address, telephone number, facsimile number and e-mail address of the owner or operator;

(d) Name, mailing address, telephone number, facsimile number and e-mail address of the local individual responsible for compliance with this rule;

(e) Name, mailing address, telephone number, facsimile number and e-mail address of the individual authorized to receive requests for data and information;

(f) A description of the production processes and a related flow chart;

(g) Identification of emission units and air pollutant generating activities;

(h) A plot plan showing the location and height of all emission units and air pollutant generating activities. The plot plan must also show the property lines of the air pollution source and indicate the distance to and direction of the nearest residential or commercial property;

(i) Type and quantity of fuels, including the sulfur content of fuels, used on a daily and annual basis;

(j) Type and quantity of raw materials used on a daily and annual basis;

(k) Estimates of the total actual emissions for the air pollution source of the following air pollutants: Particulate matter emissions, PM₁₀ emissions, sulfur dioxide (SO₂), nitrogen oxides (NO_x), carbon monoxide (CO), volatile organic compounds (VOC), lead (Pb), fluorides, sulfuric acid mist, hydrogen sulfide (H₂S), total reduced sulfur (TRS), and reduced sulfur compounds;

(l) Calculations used to determine the estimated emissions in (k) of this subsection;

(m) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions; and

(n) Any other information specifically requested by the council.

(7) Procedure for estimating emissions. The registration submittal must include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. The emission estimates must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the council. Any emission estimates submitted to the council must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(a) Source-specific emission tests;

(b) Mass balance calculations;

(c) Published, verifiable emission factors that are applicable to the source;

(d) Other engineering calculations; or

(e) Other procedures to estimate emissions specifically approved by the council.

(8) Other reports required.

(a) 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))~~ (b) A report of relocation of the source shall be filed with the council no later than ninety days prior to the relocation of the source. Submitting a report of relocation does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC, nor does it relieve the owner or operator from the requirement to obtain a permit or approval to construct if the relocation of the air pollution source would be a new source or modification subject to any federal or state permit to construct rule.

(c) A report of change of owner or operator shall be reported to the council within ninety days after the change in ownership is effective. Submitting the report of change of ownership does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC.

(9) Certification of truth and accuracy. All registrations and reports must include a certification by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(10) 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.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

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~~) 2004, as applicable to new stationary sources subject to chapter (~~80.50.~~) 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 SOCMI 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))~~ The following sections of 40 CFR Part 60 are not adopted by reference((-)):

(a) Sections 60.5 (Determination of Construction or Modification) 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)) (Review of Plans);

(b) 40 CFR Part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, and DDDD (emission guidelines); and

(c) 40 CFR Part 60, Appendix G, Provisions for an Alternative method of Demonstrating Compliance with 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-78-140 Appeals procedure. (1) Appeal of permits issued pursuant to WAC 173-400-110.

(a) Any conditions contained in an order of approval, or the denial of a notice of construction application issued by the council pursuant to the requirements of WAC 173-400-110 may be appealed as provided in chapter 34.05 RCW; provided that any order, permit, conditions or denial issued pursuant to WAC 173-400-110 which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site

certification shall be subject to judicial review only pursuant to RCW 80.50.140.

(b) The council shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the notice of construction application, along with a notice advising parties of their rights of appeal.

(2) Appeal of prevention of significant deterioration permits issued pursuant to WAC 173-400-730.

(a) A PSD permit, any conditions contained in a PSD permit, or the denial of a PSD permit by the council may be appealed as provided in chapter 34.05 RCW; provided that a PSD permit, any conditions contained in a PSD permit, or the denial of a PSD permit which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification shall be subject to judicial review only pursuant to RCW 80.50.140. Such an appeal, however, does not stay the effective date of the permit as a matter of federal law.

(b) A PSD permit issued under the terms of a delegation agreement between the EPA and the council can be appealed to the EPA's environmental appeals board as provided in 40 CFR 124.13 and 40 CFR 124.19.

(3) Appeal of operating permits issued pursuant to chapter 173-401 WAC.

(a) A decision to issue or to deny a final permit, or the terms or conditions of such a permit issued by the council pursuant to chapter 173-401 WAC, may be appealed as provided in chapter 34.05 RCW, provided that a decision to issue or to deny a final permit, or the terms or conditions of such a permit issued pursuant to chapter 173-401 WAC which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification, shall be subject to judicial review only pursuant to RCW 80.50.140.

(b) The council shall identify any appealable decision or determination as such and shall notify the recipient that the decision may be appealed by filing an appeal pursuant to chapter 34.05 RCW.

(c) The provision for appeal in this section is separate from and additional to any federal rights to petition and review under section 505(b) of the federal Clean Air Act, including petitions filed pursuant to 40 CFR 70.8(c) and 70.8(d).

(d) Appealing parties. Parties that may file the appeal referenced in subsection (4)(a) of this section include any person who submitted comment in the public participation process pursuant to WAC 173-401-800.

(e) As provided in RCW 34.05.570, a person may seek a writ of mandamus in the event that the council fails to take final action on an application for a permit, permit renewal, or permit revision within the deadlines specified by WAC 173-401-700

through 173-401-725.

(4) Appeal of acid rain permits issued pursuant to chapter 173-406 WAC.

(a) Terms used in this subsection have the definitions given in WAC 173-406-101.

(b) Appeals of the acid rain portion of an operating permit issued by the council that do not challenge or involve decisions or actions of the administrator under 40 CFR parts 72, 73, 75, 77 and 78 and sections 407 and 410 of the act and regulations implementing sections 407 and 410 shall be conducted according to the procedures in chapter 34.05 RCW; provided that appeals of the acid rain portion of an operating permit issued by the council which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification shall be subject to judicial review only pursuant to RCW 80.50.140.

(c) Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the administrator shall follow the procedures under 40 CFR part 78 and section 307 of the act. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualifying repowering technology.

(d) No administrative appeal or judicial appeal of the acid rain portion of an operating permit shall be allowed more than thirty days following respectively issuance of the acid rain portion that is subject to administrative appeal or issuance of the final agency action subject to judicial appeal.

(e) The administrator may intervene as a matter of right in any state administrative appeal of an acid rain permit or denial of an acid rain permit.

(f) No administrative appeal concerning an acid rain requirement shall result in a stay of the following requirements:

(i) The allowance allocations for any year during which the appeal proceeding is pending or is being conducted;

(ii) Any standard requirement under WAC 173-406-106;

(iii) The emissions monitoring and reporting requirements applicable to the affected units at an affected source under 40 CFR part 75;

(iv) Uncontested provisions of the decision on appeal; and

(v) The terms of a certificate of representation submitted by a designated representative under subpart B of 40 CFR part 72.

(g) The council will serve written notice on the administrator of any state administrative or judicial appeal concerning an acid rain provision of any operating permit or denial of an acid rain portion of any operating permit within thirty days of the filing of the appeal.

(h) The council will serve written notice on the administrator of any determination or order in a state administrative or judicial proceeding that interprets, modifies, voids, or otherwise relates to any portion of an acid rain permit. Following any such determination or order, the administrator will have an opportunity to review and veto the acid rain permit or revoke the permit for cause in accordance with WAC 173-401-810 and 173-401-820.

(5) 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~~) 463-70-070 (4)(c).