



**PREPROPOSAL STATEMENT OF INQUIRY**

**(RCW 34.05.310)**

**CR-101 (710/97)**

Do **NOT** use for expedited repeal or adoption

**Agency:** ENERGY FACILITY SITE EVALUATION COUNCIL (EFSEC, COUNCIL)

**Subject of possible rule making:**

See EFSEC CR-101 Attachment: Item 1

**(a) Statutes authorizing the agency to adopt rules on this subject:**

RCW 80.50.040

**(b) Reasons why rules on this subject may be needed and what they might accomplish:**

See EFSEC CR-101 Attachment: Item 2

**(b) Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**

See EFSEC CR-101 Attachment: Item 3

**(d) Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

See EFSEC CR-101 Attachment: Item 4

**(e) How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

(List names, addresses, telephone, fax numbers of persons to contact; describe meetings, other exchanges of information, etc.)

See EFSEC CR-101 Attachment: Item 5

CODE REVISER USE ONLY

**NAME (TYPE OR PRINT)**

Allen J. Fiksdal

**SIGNATURE**

/s/

**TITLE**

EFSEC Manager

**DATE**

June 19, 2001

## EFSEC CR-101 Attachment (June 19, 2001)

### Item 1

**Subject of possible rule making:**

It is the intent of this rulemaking to review all EFSEC rules. The effort may include deleting existing rules as well as formulating new ones. Others may be changed or left unchanged.

It is not the intent of this rulemaking to develop any broad new category of rules. However, certain existing processes or rules may be consolidated into new chapters for clarity.

All provisions currently codified in Title 463, Washington Administrative Code – Energy Facility Site Evaluation Council (Formerly: Thermal Power Plant Evaluation Council) will be subject to review, including:

- Chapter 463.06 General-Organization-Public records.
- Chapter 463.10 Definitions
- Chapter 463.14 Policy and interpretation.
- Chapter 463.18 Procedure-Regular and special council meetings.
- Chapter 463.22 Procedure and guidelines-Potential site studies
- Chapter 463.26 Procedure-Initial public hearing and public information meeting.
- Chapter 463.28 Procedure-State preemption.
- Chapter 463.30 Procedure-Adjudicative proceedings.
- Chapter 463.34 Procedure-Petitions for rule making and declaratory orders.
- Chapter 463.36 Procedure-Amending or terminating a site certification agreement.
- Chapter 463.38 Regulations for compliance with NPDES permit program.
- Chapter 463.39 General and operating permit regulations for air pollution sources.
- Chapter 463.40 Dangerous wastes.
- Chapter 463.42 Procedure-Guidelines-Applications for site certification.
- Chapter 463.43 Procedure-Applications for expedited processing.
- Chapter 463.47 SEPA rules
- Chapter 463.50 Independent consultants-Guidelines.
- Chapter 463.54 Certification compliance determination and enforcement.
- Chapter 463.58 Fees or charges for independent consultant study, regular and expedited application processing, determining compliance and potential site study.

### Item 2

**(b) Reasons why rules on this subject may be needed and what they might accomplish:**

This rulemaking is being conducted in response to Engrossed House Bill 2247 which made major changes to EFSEC's membership, leadership, staffing, siting, monitoring, and regulatory procedures in 2001. This rulemaking is to develop rules to make sure the agency is in compliance with the new law.

In addition, Executive Order 97-02 requires agencies to review significant rules with attention to content, readability, need, effectiveness, efficiency, clarity, intent, statutory authority, coordination, cost and fairness. This includes reviewing whether current rules provide the results that they were originally intended to achieve and whether the rules are consistent with laws and with appropriate and lawful policies.

### Item 3

**(c) Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**

EFSEC is designated by statute as a one stop permitting agency. Whereas permits and compliance would normally be sought from other agencies, applicants subject to EFSEC jurisdiction can receive all necessary permits from EFSEC in a single site certificate. State agencies that regulate this subject may include, depending on the subject matter: Department of Ecology, Washington Utilities and Transportation Commission, Department of Natural Resources, and Fish and Wildlife Department. These agencies have membership rights to the Council and will automatically be notified of the rulemaking.

Federal agencies that regulate this subject include the Environmental Protection Agency, which has delegated authority to EFSEC to issue certain air and water permits, and the US Department of Transportation, Office of Pipeline Safety, and the US Department of Energy. The state agencies or EFSEC have memoranda of understanding with these federal agencies and coordinate the rules as necessary. These federal agencies will be notified of the rulemaking.

### Item 4

**(d) Process for developing new rule:**

EFSEC will ask for initial written comments, and will provide the opportunity for additional comments if substantial disagreements are reflected in the comments. EFSEC will schedule workshops and/or appoint stakeholder advisory committees as necessary involving representatives of affected constituencies in a manner designed to develop consensus regarding any rule proposal.

### Item 5

**(e) How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

## **Notice of Opportunity to Receive Information and Provide Written Comments**

With this notice and filing of Code Reviser form CR101, EFSEC is initiating an investigation into rulemaking. Interested parties should contact EFSEC and get on the interested parties list and/or provide comments as explained below.

### **INTERESTED PARTIES LIST**

The Council wants to ensure mailings and notices are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rulemaking, please advise EFSEC in the manner described below.

Contact Mark Anderson, Rules Coordinator:

Phone: 360-956-2170  
Fax: 360-956-2158  
TDD: 360-956-2218  
E-mail: marka@ep.cted.wa.gov  
Address: Mark Anderson, EFSEC Rules Coordinator  
PO Box 43172  
Olympia, WA 98504-3172

Provide the following information:

- Always reference **EFSEC Rules Review**
- Use the words “Please keep me on the EFSEC Rules Review mailing list.”
- Provide your name, address, telephone numbers and e-mail address

**NOTE: Those parties who do not respond may not receive further mailing or information on this rulemaking.**

#### **EFSEC INTERNET WEB SITE**

EFSEC maintains an Internet Web Site with information about all EFSEC activities. Key rulemaking notices, documents and other information will be made available on the web site under [www.efsec.wa.gov/rulerev.html](http://www.efsec.wa.gov/rulerev.html).

#### **WRITTEN COMMENTS**

Initial written comments in response to this CR-101 filing may be filed with the Rules Coordinator not later than **5:00 PM on Tuesday, July 31, 2001**. All comments must be labeled as **Comments for EFSEC Rules Review** with the commenter’s name, date, and if applicable, type of software used. All commenters are asked, but not required, to file an original and 10 copies of their written comments. The Council also requests, but does not require, that comments be provided on a 3.5 inch IBM formatted high-density disk, in Microsoft Word or WordPerfect, appropriately labeled. If comments are of a limited nature, i.e. no more than two pages, they may be provided as an attachment to e-mail appropriately labeled. The Council will offer additional opportunities to provide written comments. Interested persons may file additional written comments in response to any such invitation.

#### **WORKSHOPS**

The Council may conduct workshops or provide other opportunities to provide verbal comments. The Council will provide written notice of workshops to all commenters and to any other persons who specifically ask to receive notice in this rulemaking proceeding.

#### **QUESTIONS**

If you have any questions about the filing, this notice or the rulemaking in general, please contact the Rules Coordinator, Mark Anderson, through one of the means provided above.