



**PREPROPOSAL STATEMENT OF INQUIRY**

**(RCW 34.05.310)**

**CR-101**

Do **NOT** use for expedited rule making

**Agency:** Energy Facility Site Evaluation Council (EFSEC)

**Subject of possible rule making:**

Update of EFSEC's air rules (Chapter 463-39 WAC) to be consistent with Ecology's new source review (NSR) and Prevention of Significant Deterioration (PSD) programs for air emissions. Clarification of the appeals process for permits issued under Chapter 463-39 WAC. This rulemaking process is separate, and not linked to EFSEC's rule adoption process regarding "standards" for combustion turbine projects.

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

RCW 80.50.040(1) and (12)

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

EFSEC proposes to re-adopt by reference portions of, or adopt new sections of Chapters 173-400 WAC, 173-401 WAC, 173-406 WAC, and 173-460 WAC promulgated by the Department of Ecology to comply with the state and federal Clean Air Acts and the requirements of the State Implementation Plan (SIP). Adoption of these rules is required for EFSEC to retain and exercise its delegated authority from the U.S. Environmental Protection Agency (EPA) to implement state and federal NSR and PSD regulations for facilities under EFSEC jurisdiction. Re-adoption by reference is also required to allow EFSEC to participate in Washington State's request to EPA for SIP approval, allowing full implementation of the NSR and PSD programs by Ecology, EFSEC, and local air authorities. Changes to the language describing the appeals process for permits issued under Chapter 463-39 WAC is needed for clarity.

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

The Department of Ecology, EFSEC and local air authorities will submit a state package to the U.S. Environmental Protection Agency requesting SIP Approval. Each agency must demonstrate ability to implement the federal NSR and PSD programs prior to EPA approving the state's SIP. These agencies are coordinating their rule adoption to ensure statewide consistency.

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

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

EFSEC is coordinating development of its draft rules with Ecology and EPA. EFSEC will discuss this rule making activity at Regular EFSEC meetings. EFSEC will issue notices to its interested person mailing list and rule making lists, and will hold a public hearing prior to adoption.

**(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.)

EFSEC will distribute this information through surface mail and email to persons on EFSEC mail lists. To be added to these lists, interested persons should send a request to [efsec@ep.cted.wa.gov](mailto:efsec@ep.cted.wa.gov) or call 360-956-2121 stating they wish to be placed on rulemaking surface or email lists.

EFSEC will also discuss draft and proposed rules at its Executive Committee meetings and regular monthly meetings that are open to the public. For dates and locations go to <http://www.efsec.wa.gov/meet.html> or call 360-956-2121.

For specific information regarding these rules contact Irina Makarow at 360-956-2047 or [irinam@ep.cted.wa.gov](mailto:irinam@ep.cted.wa.gov).

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**NAME (TYPE OR PRINT)**

Allen J. Fiksdal

**SIGNATURE**

**TITLE**

EFSEC Manager

**DATE**

11/6/02