



**EXPEDITED RULE MAKING
(RCW 34.05.353)**

**CR-105 (11/1/01)
EXPEDITED RULE MAKING ONLY**

Agency: Energy Facility Site Evaluation Council (EFSEC)

(a) Title of rule: (Describe Subject) Chapter 463-39 WAC, General and Operating Permit Regulations for Air Pollution Sources

Purpose: Update EFSEC's air rules for energy facilities (chapter 463-39 WAC) to be consistent with Ecology's requirements for New Source Review (NSR), Prevention of Significant Deterioration (PSD), Air Operating permit (AOP), and Acid Rain permit programs for air emissions. Update EFSEC's adoption of federal News Source Performance Standards (NSPS). Clarify agency procedures for permit application form, source registration and penalties for consistency with Ecology regulations and state laws.

Other identifying information:

(b) Statutory authority for adoption: RCW 80.50.040(1) and (12)

Statute being implemented: Chapter 80.50 RCW

(c) Summary: The main focus is to update adoption by reference, 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). Changes to the language regarding the application form, source registration and penalties for permits issued under chapter 463-39 WAC are required for clarity.

Reasons supporting proposal: Consistency with federal requirements is necessary for EFSEC to retain and exercise it's delegated authority from the U.S. Environmental Protection Agency to implement federal Clean Air Act programs and regulations for facilities under EFSEC jurisdiction. Updating the rules will also make the control of air emissions consistent with current state requirements.

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting..... Irina Makarow, Siting Manager	Olympia	(360) 956-2047
2. Implementation.... Allen Fiksdal, EFSEC Manager	Olympia	(360) 956-2152
3. Enforcement..... Mike Mills, Compliance Manager	Olympia	(360) 956-2151

(e) Name of proponent (person or organization): Energy Facility Site Evaluation Council
 Private
 Public
 Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:

(g) Is rule necessary because of:
Federal Law? Yes No If yes, ATTACH COPY OF TEXT
Federal Court Decision? Yes No Citation: Federal Clean Air Act
State Court Decision? Yes No

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY (Date) April 20, 2004

NAME (TYPE OR PRINT)

ALLEN FIKSDAL

SIGNATURE

TITLE

EFSEC Manager

DATE

(COMPLETE REVERSE SIDE)

(j) Short explanation of rule, its purpose, and anticipated effects:

Chapter 463-39 WAC, General and Operating Permit Regulations for Air Pollution Sources, implements the standards and procedural requirements for review and issuance of air emission permits for facilities under EFSEC jurisdiction. Because EFSEC is delegated by the U.S. Environmental Protection Agency to issue certain federal permits, and because EFSEC is authorized by state statute to issue state permits for air pollution sources regulated under chapter 80.50 RCW, Chapter 463-39 adopts by reference, and implements both state and federal laws and rules regarding air emissions control.

Since the last amendments to chapter 463-39 WAC, both state and federal rules for air pollution sources have been updated and/or revised. WAC 463-39-005, which adopts state regulations for air pollution sources, was last amended in 1995; WAC 463-39-115, which adopts federal new source performance standards, was last amended in 1994. Both federal laws, and regulations, and consequently state regulations, have been modified since that time. Applicable sections of chapter 173-400 WAC, chapter 173-401 WAC, chapter 173-406 WAC and chapter 173-460 WAC are adopted by reference in EFSEC WAC 463-39-005, and have all been amended by Ecology since 1995. The purpose of the amendments to chapter 463-39 WAC is to maintain a permit program for air pollution sources that is consistent with the current state and federal requirements.

Other changes proposed in this expedited rulemaking are required to clarify existing language.

Does proposal change existing rules? YES NO If yes, describe changes:

WAC 463-39-005: Update adoption by reference of applicable sections of Ecology chapters 173-400 WAC, 173-401 WAC, 173-406 WAC and 173-460 WAC, as in effect on July 1, 2003;

WAC 463-39-030: Add the definition of "permitting agency" for consistency with Ecology chapter 173-400 WAC in effect on July 1, 2003;

WAC 463-39-090: Clarify that standard Ecology forms may be used for applications for air operating permits;

WAC 463-39-100: Clarify that sources subject to chapter 173-401 WAC (operating permit regulation) are not required to comply with the registration requirements of WAC 463-39-100;

WAC 463-39-115: Update adoption by reference of federal new source performance standards, as in effect on July 1, 2003.

WAC 463-39-135: Clarify that persons in violation of chapter 463-39 WAC are subject to the provisions of both chapter 80.50 RCW and the state Clean Air Act, RCW 70.94.422.