

**WASHINGTON STATE  
ENERGY FACILITY SITE EVALUATION COUNCIL**

**Revision of WAC 463-39, Regulations for Air Pollution Sources**

**Concise Explanatory Statement  
Required by RCW 34.05.325**

August 10, 2004

**1. Summary of public notification and participation.**

Notice of the proposed rulemaking (CR102) was mailed to EFSEC's Minutes and Agendas, and Rulemaking lists by June 3, 2004, and e-mailed to the same lists on June 4, 2004. The CR102 from included notice of a public hearing to be held on July 6, 2004, starting at 1:30 p.m., at the EFSEC offices, 925 Plum Street S.E., Building 4, Conference Room 308, Olympia, Washington 98504. The deadline for submittal of public comments was end of business, July 6, 2004.

The proposed rulemaking was published in the Washington State Register, WSR 4-11-070, on June 2, 2004.

Notice of the proposed rulemaking, and of the July 6, 2004 comment meeting was posted to EFSEC's website on June 4, 2004. Notice of the July 6, 2004 public comment meeting was also included in the agenda for the Council's meeting scheduled for July 6, 2004. The agenda was mailed and e-mailed to EFSEC's minutes and agenda's list.

A public hearing on the proposed rulemaking was held on June 6, 2004, starting at 1:30 p.m., at the EFSEC offices, 925 Plum Street S.E., Building 4, Conference Room 308, Olympia, Washington 98504. The public comment hearing was transcribed.

A single written public comment was received from Rev. Wally Kroguletz, of Sumas, Washington. No oral public comments were made at the July 6, 2004 public comment meeting.

**2. Identification of EFSEC's reasons for adopting the rule .**

Adoption of the rule is required for EFSEC to maintain a permit program for air pollution sources that is consistent with current state and federal requirements. 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.

EFSEC is therefore adopting the rule to 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. Adoption of the rule will also update EFSEC's adoption of federal News Source Performance Standards (NSPS).

### **3. Differences between the text of the proposed rule as published in the register and the text of the rule as adopted.**

There are no differences between the text of the proposed rule as published in the state register and the text of the rule as adopted.

### **4. Summary of, and response to, all comments received regarding the proposed rule.**

A single comment was received during the comment period (Attachment A). The comment recommended that "...EFSEC never approve a site for any future Power Plant in a valley surrounded by 4000' tall mountains as that failed SE2 plant. Such plants spread a dangerous pollution-covering the narrow valley."

#### Response:

Adoption of the proposed rule amendments will ensure that the most up-to date applicable state and federal requirements are considered and implemented in EFSEC's permit issuance process for state and/or federally regulated air emissions. The regulations adopted will determine the level of review required for each individual permit application to ensure that project emissions are protective of all applicable state and federal standards. Therefore, modification of the proposed rule amendments is not required.

### **5. Availability of the Concise Explanatory Statement**

The concise explanatory statement is available to interested persons upon request made to EFSEC, P.O. Box 43172, Olympia, Washington, 98504-3172, by calling (360) 956-2121, or by e-mail to [efsec@ep.cted.wa.gov](mailto:efsec@ep.cted.wa.gov). The statement will also be posted to EFSEC's website at [www.efsec.wa.gov](http://www.efsec.wa.gov).