



About EFSEC: The Washington State Energy Facility Site Evaluation Council

925 Plum Street SE, Bldg. 4
PO Box 43172
Olympia, WA 98504-3172
(360) 956-2121
efsec@ep.cted.wa.gov
www.efsec.wa.gov

HISTORY AND MANDATE

The Energy Facility Site Evaluation Council or "EFSEC" was created in 1970 to provide "one stop" licensing for large energy projects. By establishing EFSEC, the State Legislature centralized the evaluation and oversight of large energy facilities in one agency within state government.

MANDATE

The Legislature called for "balancing" demand for new energy facilities with the broad interests of the public. As part of the balancing process, EFSEC takes into account factors such as:

- Protection of the environment (Air, Water, Wetlands, Plants, Fish and Wildlife, etc...);
- Protection of cultural resources;
- Health and safety impacts to surrounding populations;
- Socioeconomic impacts to the surrounding communities and the state;
- Impacts to transportation systems; and
- Concerns for energy availability.

JURISDICTION AND DUTIES

EFSEC's responsibilities derive from the Revised Code of Washington (RCW) Chapter 80.50 and the Washington Administrative Code (WAC) Title 463. These responsibilities include:

- Evaluating the impacts of energy facility proposals;
- Imposing conditions on approved projects to ensure safe construction and operation and to minimize or mitigate adverse impacts;
- Recommending to the Governor whether or not to approve an energy facility application;
- Monitoring construction, operation and decommissioning of energy facilities;
- Enforcing compliance with site certification conditions;
- Ensuring that effective and coordinated nuclear emergency response plans are in place and satisfactorily tested for the Columbia Generating Station (formerly WNP-2) nuclear power plant located at Hanford.

COUNCIL MEMBERSHIP

EFSEC is composed of **six permanent members**: a Citizen filled **Council Chair**, appointed by the Governor, and **representatives from the following five State Agencies**, appointed by the director of the agency they represent:

- Department of Ecology;
- Department of Fish and Wildlife;
- Department of Natural Resources;
- Department of Community, Trade and Economic Development;
- Utilities and Transportation Commission.

The Departments of Agriculture; Health; Transportation and the Military Department can elect to have representatives participate on EFSEC for the siting of new energy facilities on a project-by-project basis. When an application to site a facility is submitted to EFSEC, it is augmented by members from local jurisdictions affected by the project such as Cities, Counties and Port Districts.

WHERE TO GET MORE INFORMATION ABOUT A PROJECT:

- **The EFSEC web site:** www.efsec.wa.gov
- **Local Libraries:** Copies of the application and other review documents are typically made available for public reference at local libraries in the vicinity of the project.
- **Contacting EFSEC:**
Mail:
EFSEC
P.O. Box 43172
Olympia, WA 98504-3172

E-mail: efsec@ep.cted.wa.gov
Tel: (360) 956-2121
Fax: (360) 956-2158

POTENTIAL SITE STUDY

The Energy Facility Site Evaluation Council highly encourages future applicants to participate in a Potential Site Study. The early participation of interested stakeholders and the public in the review process is viewed as a key function in assisting a project proponent in developing an Application for Site Certification that avoids or mitigates potential impacts, while ensuring that adequate information is available to assess the proposal.

The **pre-application** activities that are conducted as part of the Potential Site Study are designed to provide for the full disclosure, preliminary scoping, and assessment of project impacts, and the involvement of interested agencies and persons prior to submittal of an application. This includes one or more public meetings.

The Study Product

EFSEC's independent consultant coordinates the collection and analysis of information from the proponent, interested agencies and the public.

The information collected by EFSEC's consultant during agency and public consultation will be used to develop a **work plan or criteria document** to be used by the project proponent to complete any additional studies and prepare an Application that will satisfy EFSEC's filing requirements and those of the State Environmental Policy Act (SEPA). EFSEC's consultant submits a **study report** to EFSEC documenting their analysis.

APPLICATION REVIEW

In the **Application review stage**, EFSEC conducts a fair and unbiased review of a proposed project and provides an opportunity for local government and public participation.

An application to EFSEC for Site Certification is required to have information and details on the technical, environmental, socioeconomic, and safety features of the proposed project. To evaluate the information in the application, EFSEC retains an independent consultant to determine if the information submitted in the application is:

- Technically accurate;
- Conforms to the application submittal guidelines in Chapter 463-42 WAC;
- Sufficient to prepare an Environmental Impact Statement (EIS);

After a thorough and detailed review of the proponent's application, EFSEC's independent consultant advises EFSEC if the application is sufficient, or if there is need for additional information or data for a complete understanding of the project and its possible impacts to the environment and local community.

The independent consultant also advises EFSEC when they have determined that the application is sufficient to commence the adjudicative proceedings. When EFSEC receives the report from the independent consultant and determines there is sufficient information regarding the proposed project, EFSEC proceeds with the adjudicative hearing process.

LAND USE CONSISTENCY

EFSEC will hold a **Land Use Consistency Hearing** to determine whether or not the proposed site is consistent and in compliance with county or regional land use plans or zoning ordinances pursuant to RCW 80.50.090 and Chapter 463-26-050 WAC.

OPPORTUNITIES FOR PUBLIC INVOLVEMENT

EFSEC's review process includes the following opportunities for public comment and involvement. Dates and locations will be announced by publication in local newspapers and mailing of notices to the interested persons list.

- Initial Public Informational Meeting
- Environmental Scoping Meeting
- Draft Environmental Impact Statement Written Comments and Hearing
- Draft Air (PSD) and Water (NPDES) Discharge Permit Written Comments and Hearings
- Adjudicative Public Witness Testimony Hearings
- Land-Use Consistency Hearing
- Written Comments to EFSEC
- Written Comments to the Counsel for the Environment

THE STATE ENVIRONMENTAL POLICY ACT (SEPA)

For major energy facilities EFSEC is the lead SEPA agency. EFSEC requires the preparation of an Environmental Impact Statement (EIS) for most new energy facilities under EFSEC jurisdiction.

SEPA is intended to ensure that environmental values are considered during state and local decision making. SEPA rules (WAC 197-11) direct state agencies to consider environmental information before committing to a particular course of action, identify and evaluate probable impacts, alternatives and mitigation measures, and encourage public involvement in decisions. EFSEC's rules promote the integration of SEPA requirements into the EFSEC review and siting procedures.

National Environmental Policy Act (NEPA)

When a proposed project requires federal action, it also becomes subject to the National Environmental Policy Act (NEPA). The federal agency taking the action must conduct a NEPA review. When possible, EFSEC works cooperatively with federal agencies to develop EISs, conduct hearings, and publish joint EISs for projects that fall under both SEPA and NEPA.

The EIS Process

EFSEC is responsible for preparing and distributing the EIS. EFSEC retains an **independent consultant** to help prepare the document. The time required to develop an EIS depends on whether the information contained in the application is complete, whether EFSEC requires the applicant to provide additional information that may require the applicant to conduct specific investigations, and the time it takes to develop and finalize draft and final documents, and if done in cooperation with the federal government, the time it takes to hold informal state and federal planning sessions to develop and designate the roles of each agency in developing an environmental document.

Public Review and EIS Preparation

In a first step, the public and governmental agencies are invited to provide comments to EFSEC regarding the scope of issues that should be addressed in the EIS. EFSEC typically holds an **EIS Scoping Meeting**

concurrent with the Informational Public Meeting.

A **draft EIS** is then prepared for public review and comment. EFSEC notifies the public when the draft EIS is ready, initiates a public comment period, and holds public hearings to receive comments. Joint hearings are held if it is a joint federal/state EIS. When the comment period ends, EFSEC and its consultant take the comments into consideration to prepare the **Final EIS**. When completed, the Final EIS is distributed to local libraries, interested parties, and to anyone who requests a copy.

FEDERALLY DELEGATED AIR EMISSIONS AND WATER DISCHARGE PERMITS (IF REQUIRED)

In tandem with the adjudicative proceedings, EFSEC initiates its process for developing **air and water discharge permits** if required for a proposed project.

Air Emissions: The Prevention of Significant Deterioration (PSD) Permit

Discharges to the air may require the applicant to receive a **Prevention of Significant Deterioration (PSD) permit**. The Environmental Protection Agency (EPA) has delegated responsibility for issuing the PSD permit to EFSEC.

The PSD permit details the levels of contaminants that may be discharged to the air by the project. The PSD permit requires an analysis of Best Available Control Technology, and modeling of visibility and deposition impacts to federally designated Class I Areas (National Parks and Protected Wilderness Areas). The applicant must provide evidence that the project will meet all local, state, and federal Clean Air Act standards before EFSEC will issue the permit.

Waste Water Discharges into Waters of the State: The National Pollutant Discharge Elimination System (NPDES) Permit

The applicant is required to provide evidence that any discharge to any state waters will meet all state standards and the federal Clean Water. The EPA has granted EFSEC authority to issue the **National Pollutant Discharge Elimination System (NPDES) permit** for discharging wastewater into waters of the state.

ADJUDICATIVE PROCEEDING

EFSEC's siting process requires EFSEC to hold hearings on the proposed project to allow the applicant and other official parties to present their concerns regarding the proposed project. These hearings are required to be conducted as "Adjudicative Proceedings".

A Quasi-Judicial Process

The Adjudicative Proceedings are a quasi-judicial process similar to courtroom proceedings, where EFSEC hears from the official "parties" to the proceedings in accordance with the Washington State Administrative Procedures Act (Chapter 34.05 RCW).

By law, the project applicant is a party to the Adjudicative Proceeding, as well as all state agencies with members on EFSEC. If an agency wishes to be an active participant in the proceedings, the agency's Assistant Attorney General represents the agency during the proceedings. The state Attorney General's Office appoints a **Counsel for the Environment** to be a party in the proceedings *representing the public and its interest in protecting the quality of the environment*.

Intervention of Parties Potentially affected by the proposed Project

Private citizens, tribes, non-governmental organizations, or local, state, or federal agencies may petition EFSEC to become **intervenors** (parties) in the proceedings. EFSEC can determine whether to grant intervenor participation based on the project's impact on the concerns that are presented by those seeking intervention. Intervenors are allowed to participate fully in the legal process, by presenting expert witnesses to EFSEC, and participating in cross-examination. Intervenors are usually represented by legal counsel.

Public participation in the Adjudicative Proceedings

Rather than formally petitioning EFSEC for intervention status, interested members of the public can make their concerns about the project known to the **Counsel for the Environment** who represents the public and its interest in

protecting the quality of the environment during the adjudicative phase of the proceedings.

The public may also express their concerns during the Adjudicative Hearings, at special **Public Witness Hearings** that are held in the vicinity of the proposed facility. This hearing is noticed by mailing to the project interested persons list, and by publishing notices in local newspapers.

EFSEC CONSIDERATION AND RECOMMENDATION TO THE GOVERNOR

The testimony and exhibits introduced during the adjudicative proceedings, analysis and comments provided in the Final Environmental Impact Statement, and public input provides the foundation for EFSEC's decision whether to recommend the Governor approve or disapprove the project.

RECOMMENDATION TO THE GOVERNOR

EFSEC prepares an order that explains the basis for its decision. If EFSEC determines that the project should be approved by the Governor, it develops a **Site Certification Agreement** (SCA) to be signed by the Governor. EFSEC considers both the adjudicative record and the commitments made in the Application for Site Certification in developing construction and operation conditions for recommended projects.

The SCA has all of the environmental, social, economic, and engineering conditions the applicant must meet for construction and operation throughout the life of the project. The applicant must meet these conditions if the Governor approves the project. If appropriate, the SCA also includes any proposed PSD or NPDES permits developed by EFSEC.

If EFSEC determines the project should not be recommended to the Governor for approval, the final order explains EFSEC's decision.

The **Governor** has 60 days to consider EFSEC's recommendation and can take one of the following actions:

1. Approve EFSEC recommendation and execute the SCA;
2. Reject the application; or
3. Direct EFSEC to reconsider certain aspects of the project and SCA.