



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Energy Facility Site Evaluation Council (EFSEC)

Subject of possible rule making:

The Washington Energy Facility Site Evaluation Council (EFSEC) proposes to amend three subsections of chapter 463-76 WAC. Two of the proposed rule amendments will streamline the process to make minor revisions to National Pollutant Discharge Elimination System (NPDES) Permits. Both amendments are based on existing provisions in Ecology NPDES rules, chapter 173-220 WAC. The third proposed rule amendment will assure consistency between EFSEC rules and federal regulations concerning the termination of NPDES permits.

Statutes authorizing the agency to adopt rules on this subject:

Chapter 90.48 RCW and Chapter 80.50 RCW.

Reasons why rules on this subject may be needed and what they might accomplish:

See Attachment A.

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

The U. S. Environmental Protection Agency (EPA) delegates permitting authority to EFSEC. EFSEC rules are required to be consistent with EPA regulations.

EFSEC contracts with the Washington Department of Ecology (Ecology) to write EFSEC's NPDES Permits and assist with compliance and enforcement issues. Chapter 90.48 RCW requires EFSEC and Ecology to work together to maximize coordination and minimize duplication in implementing their respective NPDES programs. Consistency between EFSEC and Ecology rules is required by state law, when possible, and facilitates consistency between the programs.

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

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

EFSEC will use standard rulemaking procedures described in chapter 34.05 RCW, e. g., CR-101, CR-102, CR-103.

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, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Written comments can be submitted by email to EFSEC at: efsec@utc.wa.gov, or to EFSEC, Attn: Jim La Spina, P.O. Box 43172, Olympia, WA 98504-3172.

More information:


- Updates will be posted on EFSEC's website: <http://www.efsec.wa.gov/default.shtm>
- Subscribers to EFSEC's Interested Parties and Rulemaking lists will be mailed updates.
- Contact EFSEC Staff:

Jim La Spina

jlaspina@utc.wa.gov

360-664-1362

Public comments to EFSEC on the proposed rule amendments are due by September 15, 2017 at 5 pm.

DATE 7/26/2017
NAME (TYPE OR PRINT) Stephen Posner
SIGNATURE 
TITLE EFSEC Manager

CODE REVISER USE ONLY
<div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 80%;"> <p style="text-align: center;">OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED</p> <p>DATE: July 26, 2017</p> <p>TIME: 2:32 PM</p> <p>WSR 17-16-078</p> </div>

ATTACHMENT A

Reasons why rules on this subject may be needed and what they might accomplish:

WAC 463-76-054 – Schedules of Compliance

The purpose of this rule amendment is make EFSEC rules consistent with existing state and federal rules concerning interim compliance dates within a schedule of compliance. EFSEC's existing rules require interim compliance dates be no more than nine months apart. Ecology and federal rules require interim compliance dates to be no more than one year apart. WAC 173-220-140(2) and 40 CFR 122.47(a)(3), respectively. EFSEC proposes to amend EFSEC's existing rules to allow interim compliance dates of up to one year apart.

WAC 463-76-062 – Modification of NPDES permit

WAC 463-76-062(1)

The purpose of this rule amendment is to make EFSEC rules consistent with federal regulations concerning the termination of NPDES permits. Federal regulations do not provide for the suspension of NPDES permits, but do recognize that they can be terminated. 40 CFR 122 Subpart D, Subsections 122.61-64. This proposed rule amendment will delete suspension of a permit and will add termination of a permit to EFSEC's options to make EFSEC rules consistent with federal regulations.

WAC 463-76-062(3)

The purpose of this rule amendment is to make EFSEC rules consistent with Ecology rules to streamline and simplify EFSEC's process to make minor revisions to an NPDES permit. Existing EFSEC rules require implementation of the full permit revision process, with formal public notice and Council approval processes. Ecology rules differentiate between major and minor permit modifications and allow the use of an abbreviated public process for the minor modification of an NPDES, provided the revision does not result in less stringent effluent limits. WAC 173-220-190(3). EFSEC's proposal to adopt Ecology's approach to minor permit revisions will simplify and streamline the permittees' requests for permit modifications and allow more expedited action by EFSEC to implement such requests.