



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 05-01-181 _____ ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input checked="" type="checkbox"/> Proposal is exempt under RCW 34.05.310(4). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject) Chapter 463-78 WAC – General and Operating Permit Regulations for Air Pollution Sources

Hearing location(s):
 Energy Facility Site Evaluation Council
 925 Plum Street SE, Building 4
 Conference Room 308
 Olympia, WA 98504-3172

Date: February 14, 2006 Time: 1:30 p.m.

Submit written comments to:

Name: Allen J. Fiksdal, EFSEC Manager
 Address: PO Box 43172
 Olympia, WA 98504-3172
 e-mail efsec@cted.wa.gov
 fax (360) 956-2158 by (date) February 7, 2006, 5:00 pm

Assistance for persons with disabilities: Contact

Irina Makarow _____ by February 7, 2006

TTY () _____ or (360) 956-2047

Date of intended adoption: February 14, 2006

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of this proposal is to update EFSEC's air rules ([chapter 463-78 WAC](#)) to make them consistent with the federal Prevention of Significant Deterioration (PSD) and ecology's new source review (NSR) programs, and to clarify procedures for appeals of air permits and source registration. The following changes are being made:
 WAC 463-78-005: update adoption by reference of ecology regulations; WAC 463-78-030: make consistent with current ecology rules; WAC 463-78-100: clarify registration requirements with text that can be approved into the State Implementation Plan; WAC 463-78-115: update adoption by reference of federal regulations; WAC 463-78-140: clarify permit appeals procedures and make consistent with state statute.

Reasons supporting proposal: In February 2005, ecology finalized revision of its rules relating to air emissions regulation (in particular [chapter 173-400 WAC](#)), to incorporate new federal requirements under the PSD program that became effective in 2003, and to reorganize and simplify their rules. In order to implement its own air emission rules, EFSEC adopts ecology and federal rules for air emissions. EFSEC has been delegated authority to issue federal air emission permits by the U.S. Environmental Protection Agency (US EPA). EFSEC must adopt the proposed rules to maintain consistency with federal requirements. Consistency is necessary for EFSEC to retain and exercise its delegated authority from the US EPA to implement federal Clean Air Act programs and regulations for facilities under EFSEC jurisdiction. Updating the rules will also make the review and control of air emissions consistent with current state requirements.

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

Statute being implemented: Chapter 80.50 RCW

Is rule necessary because of a:

- | | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If yes, CITATION: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- Federal Clean Air Act

CODE REVISER USE ONLY

Dec 9, 2005, 3:30 pm

WSR 06-01-014

DATE
December 9, 2005

NAME (type or print)
Allen J. Fiksdal

SIGNATURE

TITLE
EFSEC Manager

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

Name of proponent: (person or organization) Energy Facility Site Evaluation Council

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Irina Makarow	Olympia	(360) 956-2047
Implementation.... Allen J. Fiksdal	Olympia	(360) 956-2152
Enforcement..... Mike Mills	Olympia	(360) 956-2151

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The proposed changes to Chapter 463-78 WAC are exempt from the requirements to prepare a small business economic impact statement because they are adopting federal requirements without material change, adopting rules of another Washington state agency without material change, and clarifying language of a rule without changing its effect. See RCW 19.85.025(3) and RCW 34.05.310(4) (c) and (d).

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: The proposed change to Chapter 463-78 WAC are exempt from the requirements of RCW 34.05.328

because they are adopting federal requirements without material change, adopting rules of another Washington state agency without material change, and clarifying language of a rule without changing its effect. See RCW 34.05.328(5)(b)(iii) and (iv).