



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

**Agency:** Energy Facility Site Evaluation Council

- Permanent Rule**  
 **Emergency Rule**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.  
 Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** 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.

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: 463-78-005; -030; -100; -115; -140.  
 Suspended:

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

**Other authority :**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 06-01-014 on December 9, 2005.

Describe any changes other than editing from proposed to adopted version: The language in WAC 463-78-140 (1), (2), (3), and (4) was clarified to indicate that permit actions which become effective upon final action of the governor according to RCW 80.50.100 on an application for site certification are subject to judicial review pursuant to RCW 80.50.140.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: (None prepared)

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:** February 14, 2006

**NAME (TYPE OR PRINT)**  
James O. Luce

**SIGNATURE**  
  
/s/

**TITLE**  
EFSEC Chair

**CODE REVISER USE ONLY**

Feb 23, 2006  
4:24 PM  
WSR 06-16-037

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|   |     |       |         |          |          |       |
|---|-----|-------|---------|----------|----------|-------|
| <b>Federal statute:</b>                 | New | _____ | Amended | _____    | Repealed | _____ |
| <b>Federal rules or standards:</b>      | New | _____ | Amended | <u>5</u> | Repealed | _____ |
| <b>Recently enacted state statutes:</b> | New | _____ | Amended | _____    | Repealed | _____ |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted in the agency's own initiative:**

|     |       |         |          |          |       |
|-----|-------|---------|----------|----------|-------|
| New | _____ | Amended | <u>5</u> | Repealed | _____ |
|-----|-------|---------|----------|----------|-------|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |       |         |          |          |       |
|-----|-------|---------|----------|----------|-------|
| New | _____ | Amended | <u>2</u> | Repealed | _____ |
|-----|-------|---------|----------|----------|-------|

**The number of sections adopted using:**

|                                       |     |       |         |       |          |       |
|---------------------------------------|-----|-------|---------|-------|----------|-------|
| <b>Negotiated rule making:</b>        | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Pilot rule making:</b>             | New | _____ | Amended | _____ | Repealed | _____ |
| <b>Other alternative rule making:</b> | New | _____ | Amended | _____ | Repealed | _____ |