



**RULE-MAKING ORDER**  
(RCW 34.05.360)

**CR-103** (10/1/89)

Agency: Energy Facility Site Evaluation Council

- Permanent Rule  
 Emergency Rule

(1) Date of adoption: February 10, 1992

(2) Purpose: (A) To conform council rules to its reorganization within the state energy office; (B) To update references to reflect current application and operational policies.

(3) Citation of existing rules affected by this order:  
Repealed: (see attached list)  
Amended: (see attached list)  
Suspended:

(4) Authority for adoption:  
Statute: RCW 80.50.040(1)  
Other Authority:

**(5.1) PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 92-02-099 on January 2, 1992 (date).

Describe any changes other than editing from proposed to adopted version:

Please see attached list of changes from proposed version to adopted version.

**(5.2) EMERGENCY RULE ONLY**

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) 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.  
 (b) 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:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?  
 Yes  No If yes, explain:

(6) Effective date of rule:

**Permanent Rules**

- 31 days after filing  
 Other (specify) \_\_\_\_\_ \*

\*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

**Emergency Rules**

- Immediately  
 Later (specify) \_\_\_\_\_

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

APR 02 1992

TIME: 4:44 AM  
FILE NO: 92-09-013

NAME (TYPE OR PRINT)

ROBERT G. WALDO

SIGNATURE

*Robert G. Waldo*

TITLE

Chair EFSEC

DATE

2/10/92

(3) Citation of existing rules affected by this order:

Amended:

WAC 463-06-020, -030, -040, -050, -070, -150

WAC 463-39-010, -030, -115, -120

WAC 463-42-055, -165, -195, -225, -265, -345, -445, -455, -465,  
-595, -625

WAC 463-47-051, -090

Repealed:

WAC 463-39-040, -050, -060, -080, -110, -150

WAC 463-26-030

**LIST OF CHANGES FROM PROPOSED VERSION TO ADOPTED VERSION**

- WAC 463-06-020(2) "chairman" is changed to "chair."
- WAC 463-06-050 "chairman" is changed to "chair" and statement on council manager responsibilities added.
- WAC 463-39-030(2) phrase "except for WAC 463-39-120 where the department of ecology is intended" is added.
- WAC 463-42-055 - language revised to clarify distribution of copies.
- WAC 463-42-225 - term "transmission and associated facilities" substituted for "natural gas and oil pipelines."
- WAC 463-42-345 phrase "for a minimum length of time to be determined by the council" deleted.
- WAC 463-42-445 term "habitat types," added.
- WAC 463-42-455 and -465 term "all habitat types," added.
- WAC 463-42-685 this section deleted and will be subject to further rules hearing.
- WAC 463-42-690 - modifying language "as possible" deleted.

AMENDATORY SECTION (Amending Order 78-4, filed 8/28/78)

WAC 463-06-020 DESCRIPTION OF ORGANIZATION. (1) The voting membership of the council consists of the authorized representatives of the member agencies listed in RCW 80.50.030. In addition, a voting county representative, a voting city representative, and a nonvoting port district representative may sit with the council under the circumstances described in RCW 80.50.030.

(2) The ~~((chairman))~~ chair of the council is the person appointed by the governor with the advice and consent of the senate to a term coextensive with that of the governor pursuant to RCW 80.50.030. The chairman ~~((serves--full--time;))~~ has a vote on all matters before the council and ~~((is-officed))~~ has an office at the ~~((council-office--The-chairman-may--appoint--a--confidential--secretary--to--the--chairman))~~ Washington state energy office.

(3) The ~~((council-has-an-executive-secretary-who-is-appointed-by-and-serves-at-the-pleasure-of-the-council--The-executive-secretary-is-responsible-for-the-appointment-and-supervision-of-council-staff--All-members-of-the-council-staff--are--officed--at--the--council--office))~~ Washington state energy office provides administrative services and staff to the council.

AMENDATORY SECTION (Amending Order 81-4, filed 9/30/81)

WAC 463-06-030 COUNCIL OFFICE--BUSINESS HOURS. The council office is located at ~~((Rowesix;--4224---6th-Avenue))~~ the Washington State Energy Office, 809 Legion Way S.E., Olympia, Washington. It is open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., Saturdays, Sundays, and legal holidays excepted. Notices, applications, business correspondence, or other communication should be sent to the council office.

AMENDATORY SECTION (Amending Order 84-1, filed 3/21/84)

WAC 463-06-040 ~~((SEMI-MONTHLY))~~ MONTHLY MEETINGS. Regular meetings of the council are held on the second ~~((and-fourth))~~ Monday ~~((s))~~ of each month. Regular meetings ~~((may-be-canceled-or--rescheduled--by-approved--council--motion-either-by-oral-notice-given-at-the-preceding-meeting))~~ of the council's executive committee are held on the first and third Mondays of each month. Regular council and executive committee meetings may be canceled or rescheduled at the discretion of the chair or by the noticing procedure provided for special meetings pursuant to WAC 463-18-050.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-050 GENERAL METHOD BY WHICH OPERATIONS ARE CONDUCTED. In general, the council reaches major policy and operational decisions through formal council action at regular and special meetings. In some circumstances, the ~~((chairman))~~ chair may perform duties which are specifically authorized by the council. Day-to-day administration is handled by the ~~((executive-secretary))~~ council manager and staff. The council manager is responsible for implementing the decisions of the council and for directing the staff that supports the council.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-070 PUBLIC RECORDS OFFICER. The council's public records officer is the ~~((executive-secretary--he))~~ council manager who is responsible for implementation of these and other applicable regulations regarding public records. Correspondence regarding public records is to be addressed to the public records officer.

AMENDATORY SECTION (Amending Order 103, filed 11/4/76)

WAC 463-06-150 REVIEW OF DENIALS. Any person is entitled to review of a public record request denial if written request for review is promptly made. The request should specifically refer to the written statement constituting the denial. Any such written request is to be promptly referred to the ~~((executive-secretary-of-the))~~ council manager who shall either affirm or reverse the denial. The ~~((executive-secretary))~~ council manager may ~~((in-his-discretion))~~ request a special meeting of the council to review the denial if such action is requested in writing and is otherwise warranted.

NEW SECTION

WAC 463-39-005 ADOPTION BY REFERENCE. The energy facility site evaluation council adopts the following sections or subsections of chapter 173-400 WAC by reference. Any revisions or changes to these rules are hereby adopted.

- WAC 173-400-030: Definitions.
- WAC 173-400-040: General standards for maximum emissions.
- WAC 173-400-050: Emission standards for combustion and incineration units.
- WAC 173-400-060: Emission standards for general process units.
- WAC 173-400-105: Records, monitoring, and reporting.
- WAC 173-400-110: New source review (NSR).
- WAC 173-400-120: Bubble rules.
- WAC 173-400-131: Issuance of emission reduction credits.
- WAC 173-400-136: Use of emission reduction credits.
- WAC 173-400-141: Prevention of significant deterioration (PSD).
- WAC 173-400-151: Retrofit requirements for visibility protection.
- WAC 173-400-161: Compliance schedules.
- WAC 173-400-171: Public involvement.
- WAC 173-400-180: Variance.
- WAC 173-400-190: Requirements for nonattainment areas.
- WAC 173-400-200: Creditable stack height and dispersion techniques.
- WAC 173-400-205: Adjustment for atmospheric conditions.

AMENDATORY SECTION (Amending Order 79-1, filed 8/6/79)

WAC 463-39-010 PURPOSE. The energy facility site evaluation council, under the authority vested in it by chapter 80.50 RCW and 40 C.F.R. Part 52 is charged with responsibilities for the conduct of a state-wide program of air pollution prevention and control for energy facilities. This regulation provides the basic framework for carrying out the council's responsibilities for such a program through the establishment of standards for maximum permissible emissions, the implementation of registration and notice requirements, provision for monitoring and reporting, and the identification of regulatory actions which may be taken to enforce standards. This chapter is designed to operate within the statutory framework for the distribution of responsibilities between state, regional and local units of government in dealing with problems of air pollution.

AMENDATORY SECTION (Amending Order 79-1, filed 8/6/79)

WAC 463-39-030 ADDITIONAL DEFINITIONS. In addition to the definitions contained in WAC 173-400-030, the following terms shall have the following meaning unless a different meaning is plainly required by context (~~the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:~~

(1) ~~"Abnormal operation" means a process operation other than a normal operation which may result in emissions that exceed the standards. An abnormal operation can be anticipated and planned.~~

(2) ~~"Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant."~~

(3) ~~"Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such~~

characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(4) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate or hours of operation, or both) and the most stringent of the following:

(a) Applicable standards as set forth in 40 CFR Part 60 and Part 61;

(b) The applicable state implementation plan emission limitation, or

(c) The emission rate specified as a permit condition.

(5) "Ambient air" means the surrounding outside air.

(6) "Ambient air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the air which shall not be exceeded.

(7) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to this regulation which would be emitted from any proposed stationary source or major modification which the council on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutants. In no event shall application of the best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61. If the council determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice or operational standard, or combination thereof, to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results. The requirement of RCW 70.94.152 that a new source should provide "all known available and reasonable methods of emission control" is assumed to mean the same as best available control technology.

(8) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.

(9) "Combustion and incineration sources" means sources using combustion for waste disposal, steam production, chemical recovery or other process requirements, but excludes open burning.

(10) "Commenced construction" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(11) "Compliance schedule" means a schedule of steps to be taken to comply with emission requirements including a description of the specific steps and the date when each step will be completed.

(12) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharge.

(13) "Council" means the energy facility site evaluation council.

(14) "Chairman" means the chairman of the energy facility site evaluation council or his duly authorized representative.

(15) "Emission" means a release of contaminants into the ambient air.

(16) "Emission standard" means a regulation (or portion thereof) setting forth an allowable rate of emissions, level of opacity, or

prescribing equipment or fuel specifications that result in control of air pollution emissions:

(17) -- "Excess emissions" means emissions of an air pollutant in excess of an emission standard;

(18) -- "Facility" means an identifiable process or activity that emits contaminants to the ambient air;

(19) -- "Fossil-fuel-fired-steam-generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer;

(20) -- "Fugitive dust" means a type of particulate emission made airborne by forces of wind, man's activity, or both, such as unpaved roads, construction sites, or tilled lands. Two major categories are anthropogenic sources (those which result directly from and during human activities) and wind-erosion sources (those resulting from erosion of soil by wind). Fugitive dust is distinguished from fugitive emissions;

(21) -- "Fugitive emissions" means contaminants which are generated by industrial or other activities not covered by the fugitive dust definition and which are released to the atmosphere through openings such as windows, vents, doors, or ill-fitting oven closures rather than through primary exhaust systems or are reentrained from unenclosed material handling operations. Aggregate storage operations and active tailing piles are included in this category of sources;

(22) -- "General process sources" means sources using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means excluding combustions;

(23) -- "Incinerator" means a furnace used for primarily the destruction of waste;

(24) -- "Lowest achievable emission rate" means for any source, that rate of emissions which reflects:

(a) -- The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(b) -- The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent;

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance;

(25) -- "Major source" means any stationary source which is subject to the jurisdiction of the energy facility site evaluation council under chapter 88, 50-RCW and which is included in section 169(a)(i) of the Federal Clean Air Act;

(26) -- "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor;

(27) -- "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of material with no significant alteration of the chemical or physical properties of the material;

(28) -- "New source" means a source constructed, installed or established after the effective date of this chapter. Addition to or enlargement or replacement of a source or any major alteration or any change in a source which has the potential to increase emissions shall be construed as construction or installation or establishment of a new source;

(29) -- "New source performance standards (NSPS)" means the federal regulations set forth in 40-CFR-Part-60;

(30) -- "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a National Ambient Air Quality Standard for one or more of the criteria pollutants;

(31) -- "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage;

(32) -- "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion;



{33} "Particulate matter" means small discrete masses of liquid or solid, exclusive of uncombined water.

{34} "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

{35} "Potential emissions" means the emissions of a pollutant from a source operated at maximum capacity in the absence of air pollution control equipment. Air pollution control equipment includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

{36} "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category, taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality and the capital and operating costs of the additional controls. RACT requirements for any source or source category may be adopted as an order or regulation after public hearing.

{37} "Source" means one or more processes or operations which emit or may emit any contaminants to the ambient air. A stationary source is composed of one or more pollutant emitting facilities.

{38} "Source category" means all sources of the same type or classification.

{39} "Standard conditions" means a temperature of 60°F (15.6°C) and a pressure of 29.92 inches (760mm) of mercury.

{40} "Upset" means an unexpected sudden occurrence which may result in emissions in excess of the emission requirements).

(1) "Council" means the energy facility site evaluation council.

(2) "Ecology" and "authority" shall be synonymous with the energy facility site evaluation council except for WAC 463-39-120 where the department of ecology is intended.

#### AMENDATORY SECTION (Amending Order 82-3, filed 6/30/82)

WAC 463-39-115 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES. Subparts A, D, Da, GG, J, K ((and)), Kb, V, KKK, LLL, QQQ of Title 40, code of federal regulations, part 60 (standards of performance for new stationary sources), ((as promulgated prior to May 1, 1982)) are by this reference adopted and incorporated herein with the exception of sections 60.5 (determination of construction or modification) and 60.6 (review of plans). For the purpose of state administration of the federal regulations adopted by reference hereby, the term "administrator" as used therein shall refer to the council.

Sections 60.5 and 60.6 of Title 40, code of federal regulations, are not incorporated herein because they provide for preconstruction review of new stationary sources only on request. By virtue of WAC 463-39-110, such review under the state program is mandatory and an order of approval is required before the construction, installation or establishment of a new stationary source may commence.

AMENDATORY SECTION (Amending Order 79-1, filed 8/6/79)

WAC 463-39-120 MONITORING AND SPECIAL REPORT. ((1))--Monitoring)) The department of ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmospheres to concentrations and movements of air contaminants.

As a part of this program, the director of the department of ecology or ((his)) an authorized representative of the director may recommend that any source under the jurisdiction of the council conduct stack and/or ambient air monitoring, and to report the results to the council and department of ecology.

((2))--Investigation of conditions.--For the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, the council, or its authorized representative, shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple-unit private dwellings housing one or two families.--No person shall refuse entry or access to the council, or its authorized representative when entry is requested for the purpose of inspection, and when appropriate credentials are presented; nor shall any person obstruct, hamper, or interfere with any such inspection.

((3))--Source testings.--In order to demonstrate compliance with this regulation the council may require that a test be made of the source using a method on file with the department of ecology.--The operator of a source may be required by the council to provide the necessary platform and sampling ports for the department of ecology personnel to perform a test of the source.--The department of ecology shall be allowed to obtain a sample from any source.--The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

((4))--Abnormal operations or upset conditions.

((a))--Upset conditions which may result in emissions in excess of the standards set by this chapter must be reported to the council within one working day.--Abnormal operations can be anticipated and must be reported in advance of the occurrence of the abnormal operation if it may result in emissions in excess of standards.

((b))--Any period of excess emissions is presumed to be a violation unless and until the owner or operator demonstrates and the council finds that:

- ((i))--The incident was reported as required, and
- ((ii))--Complete details were furnished the council, and
- ((iii))--Appropriate remedial steps have been taken, and
- ((iv))--The incident was unavoidable.

((c))--If the conditions of subdivision (b) of this subsection are met, the incident is excusable and a notice of violation will not be issued.

((d))--If any of the conditions of subdivision (b) of this subsection are not met, the incident is not excusable and a notice of violation will be issued and a penalty may be assessed.

((e))--For the council to find that an incident of excess emissions is unavoidable, the following conditions must be met:

((i))--The process equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with minimizing emissions.

((ii))--Repairs or corrections were made in an expeditious manner when the operator knew or should have known that emission limitations were being or would be exceeded.--Expeditious repairs or corrections require off-shift or overtime labor if such utilization will reduce the extent of excess emissions.

((iii))--The incident is not one in a recurring pattern which is indicative of inadequate design, operation or maintenance.

((iv))--The amount and duration of the excess emissions as well as the impact of the emissions on ambient air quality were minimized by taking all reasonable steps.

(5) Continuous monitoring and recording. Owners and operators of the following categories of stationary sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified:

(a) Fossil-fuel-fired steam generators:

(i) Capacity, except where:

(A) Steam-generator capacity is less than 250 million BTU per hour heat input; or

(B) Only gaseous fuel is burned; or

(C) Only oil or a mixture of oil and gas is burned and opacity and particulate regulations can be met without using particulate collection equipment; and, the source has never, through any administrative or judicial procedure, been found in violation of any visible emission standard;

(ii) Sulfur dioxide, except where:

(A) Steam-generator capacity is less than 250 million BTU per hour heat input; or

(B) Sulfur dioxide control equipment has not been installed;

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data;

(iv) General exception. These requirements do not apply to a fossil-fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the council by the owner or operator;

(b) Fluid-bed catalytic cracking units catalyst regenerators at petroleum refineries:

Opacity where fresh feed capacity is more than 20,000 barrels per day;

(c) Owners and operators of those sources required to install continuous monitoring equipment under this regulation shall demonstrate to the council compliance with the equipment and performance specifications, and observe the reporting requirements, contained in Title 40, code of federal regulations, part 51, appendix F, sections 3, 4 and 5, promulgated on October 6, 1975, which is by this reference adopted and incorporated herein;

(d) All sources subject to this regulation shall procure and install equipment and commence monitoring and recording activities no later than eighteen months after adoption of this regulation by the council. Any extension to this time requirement shall be negotiated through the variance procedure of WAC 463-39-150.

(e) Special considerations. If for reason of physical plant limitations or extreme economic situations, the council determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of stack tests conducted at a frequency sufficient to establish the emission levels over time and to monitor deviations in these levels.

(f) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard;

(ii) Not subject to an applicable emission standard;

(iii) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this regulation during periods of monitoring system malfunctions provided that the source owner or operator shows to the satisfaction of the council that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Emission inventory. The owner or operator of any air contaminant source shall submit an inventory of emissions from the source each year upon a form and according to instructions received from the council. The inventory shall include stack and fugitive emissions of particulates, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, volatile organic compounds, and other contaminants, and shall be submitted when required no later than forty-five days after the end of the calendar year. The inventory

shall--include--total--emissions--for--the--year--in--tons--per--year--and--an estimate--of--the--percentage--of--the--total--emitted--each--quarter--An estimate--shall--be--made--of--the--maximum--design--emission--rate--for--a--one hour--period--and--a--twenty--four--hour--period--during--the--year--The--report shall--include--the--average--sulfur--content--of--any--fuel--or--raw--material used--which--will--result--in--emissions--of--more--than--twenty--five--tons--per year--of--sulfur--dioxide.

(7) Change in raw materials or fuels--Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of fifty tons per year or more over that stated in the initial inventory required by WAC 463-39-120(6) shall require the submittal of sufficient information to the council to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The council may require controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average sulfur content over the initial inventory shall not require such notices.)

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 463-39-040 GENERAL STANDARDS FOR MAXIMUM PERMISSIBLE EMISSIONS.  
 WAC 463-39-050 MINIMUM EMISSION STANDARDS FOR COMBUSTION AND INCINERATION SOURCES.  
 WAC 463-39-060 MINIMUM EMISSION STANDARDS FOR GENERAL PROCESS SOURCES.  
 WAC 463-39-080 COMPLIANCE SCHEDULES.  
 WAC 463-39-110 NEW SOURCE REVIEW.  
 WAC 463-39-150 VARIANCE.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-055 GENERAL--FORM AND NUMBER OF COPIES. (1) Applications shall be on 8-1/2 by 11" sheets, in loose-leaf form with a hard cover binder. Applicants shall supply thirty-five copies of the application ((shall--be-supplied)) to the council, ((and)) two copies to each county, two copies to each city, and one copy to each port district in which the ((site-is)) proposed project would be located ((at-the-time-that-the-original-is--filed)). In addition, one copy shall be supplied to each intervenor on admission to the proceedings. Information later submitted shall be by page-for-page substitutions suitable for insertion in the application binder, bearing the date of the submission.

(2) An applicant shall also provide the council copies of its application in a digital format for use in personal computers. Digital format shall be determined by the council in consultation with its consultants and the applicant.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-165 PROPOSAL--WATER SUPPLY SYSTEM. The applicant shall describe the location and type of water intakes and associated facilities.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-195 PROPOSAL--WASTEWATER TREATMENT. The applicant shall describe each wastewater source associated with the facility and for each source, the applicability of all known, available, and reasonable methods of wastewater control and treatment to ensure it meets current waste discharge and water quality regulations. Where wastewater control involves collection and retention for recycling and/or resource recovery, the applicant shall show in detail the methods selected, including at least the following information: Waste source(s), average and maximum daily amounts and composition of wastes, storage capacity and duration, and any bypass or overflow facilities to the wastewater treatment system(s) or the receiving waters. Where wastewaters are discharged into receiving waters, the applicant shall provide a detailed description of the proposed treatment system(s), including appropriate flow diagrams and tables showing the sources of all tributary waste streams, their average and maximum daily amounts and composition, individual treatment units and their design criteria, major piping (including all bypasses), and average and maximum daily amounts and composition of effluent(s).

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-225 PROPOSAL--EMISSION CONTROL. The applicant shall demonstrate that the highest and best practicable treatment for control of emissions will be utilized in facility construction and operation. In the case of fossil fuel power plants ((and)), petroleum refineries, and transmission and associated facilities, the applicant should deal with products containing sulphur ((and)), NOx, volatile organics, CO, CO2, aldehydes, particulates, and any other emissions subject to regulation by local, state, or federal agencies. In the

case of a nuclear-fueled plant, the applicant should deal with optional plant designs as these may relate to gaseous emissions.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-265 PROPOSAL--PROTECTION FROM NATURAL HAZARDS. The applicant shall describe the means employed for protection of the facility from earthquakes, volcanic eruption, flood, tsunami, storms, avalanche or landslides, and other major natural disruptive occurrences.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-345 PHYSICAL ENVIRONMENT--AIR POLLUTION CONTROL. The applicant shall identify all pertinent air pollution control standards. The application shall contain adequate data showing air quality and meteorological conditions at the site. Meteorological data shall include, at least, adequate information about wind direction patterns, air stability, wind velocity patterns, precipitation, humidity, and temperature. The applicant shall describe the means to be utilized to assure compliance with applicable local, state, and federal air quality and emission standards.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-445 PHYSICAL ENVIRONMENT--INVENTORY OF POTENTIALLY AFFECTED VEGETATION, WETLANDS, ANIMAL LIFE, AND AQUATIC LIFE DESCRIBED. The applicant shall describe all habitat types, vegetation, wetlands, animal life, and aquatic life which might reasonably be affected by construction and/or operation of the energy facility and any associated facilities. Any endangered species or noteworthy species or habitat shall receive special attention. Assessment of these factors shall include density and distribution information.

AMENDATORY SECTION (Amending Order 87-1, filed 2/11/87)

WAC 463-42-455 PHYSICAL ENVIRONMENT--IMPACT OF CONSTRUCTION, OPERATION, ABANDONMENT, TERMINATION, OR CESSATION OF OPERATIONS ON VEGETATION, WETLANDS, ANIMAL LIFE, AND AQUATIC LIFE. The applicant shall describe the projected effect of project construction, operation, abandonment, termination, or cessation of operations upon all habitat types, vegetation, wetlands, animal life, and aquatic life.

AMENDATORY SECTION (Amending Order 87-1, filed 2/11/87)

WAC 463-42-465 PHYSICAL ENVIRONMENT--DESCRIPTION OF MEASURES TAKEN TO PROTECT VEGETATION, WETLANDS, ANIMAL LIFE, AND AQUATIC LIFE.

The application shall contain a full description of each measure to be taken by the applicant to protect all habitat types, vegetation, wetlands, animal life, and aquatic life from the effects of project construction, operation, abandonment, termination, or cessation of operations.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-595 HUMAN ENVIRONMENT--SOLID WASTES ((DISPOSE)). The applicant shall describe the treatment or disposition of all solid or semisolid construction and operation wastes including spent fuel, ash, sludge, and bottoms, and show compliance with applicable state and local ((comprehensive)) solid waste ((disposal--plans)) regulations.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-625 HUMAN ENVIRONMENT--CRITERIA, STANDARDS, AND FACTORS UTILIZED TO DEVELOP TRANSMISSION ROUTE. The applicant shall ((indicate)) identify the federal, state, and industry criteria used in the energy transmission route selection and shall identify the criteria used and the construction factors considered in developing the proposed design and shall indicate how such criteria are ((satisfied)) met.

NEW SECTION

WAC 463-42-690 AMENDMENTS TO APPLICATIONS, ADDITIONAL STUDIES, PROCEDURE. (1) Applications to the council for site certification shall be complete and shall reflect the best available current information and intentions of the applicant.

(2) Amendments to a pending application must be presented to the council at least thirty days prior to the commencement of the adjudicative hearing, except as noted in subsection (3) of this section.

(3) Within thirty days after the conclusion of the hearings, the applicant shall submit to the council, application amendments which include all commitments and stipulations made by the applicant during the adjudicative hearings.

(4) After the start of adjudicative hearings, additional environmental studies or other reports shall be admitted only for good cause shown after petitions to the council or upon request of the council, or submitted as a portion of prefiled testimony for a witness at least thirty days prior to appearance.

AMENDATORY SECTION (Amending Order 84-2, filed 9/14/84)

WAC 463-47-051 DESIGNATION OF RESPONSIBLE OFFICIAL. Within the energy facility site evaluation the responsible official is the ~~((executive-secretary))~~ council manager.

AMENDATORY SECTION (Amending Order 84-2, filed 9/14/84)

WAC 463-47-090 EIS PREPARATION. (1) Preparation of draft and final EISs and SEISs is the responsibility of the ~~((application-review-committee-or-its-successor))~~ council or a council subcommittee. Before the council issues an EIS, the responsible official shall be satisfied that it complies with these rules and chapter 197-11 WAC.

(2) The council normally will prepare its own draft and final EISs. It may require an applicant to provide information that the council does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under these rules.

(3) If the council would be unable to prepare a draft and/or final EIS due to its commitments or other constraints or when a local agency transfers lead agency status to the council under WAC 197-11-940, the council may allow an applicant the following option for preparation of the draft and/or final EIS for the applicant's proposal:

(a) The council retains a mutually agreed upon and independent outside party to prepare the document.

(b) The applicant and the council agree upon a method of funding in which the applicant will bear the expense of the EIS preparation, but the consultant will work directly for the council.

(c) The outside party will prepare the document under the supervision of the ~~((application-review-committee,-or-its-successor))~~ council or council subcommittee, and the responsible official.

(d) Normally, the council will have the documents printed and distributed.

(4) Whenever someone other than the council prepares a draft or final EIS, the council shall:

(a) Direct the areas of research and examination to be undertaken and the content and organization of the document.

(b) Initiate and coordinate scoping, ensuring that the individual preparing the EIS receives all substantive information submitted by any agency or person.

(c) Assist in obtaining information on file with another agency that is needed by the person preparing the EIS.

(d) Allow the person preparing the EIS access to council records relating to the EIS (under chapter 42.17 RCW--Public disclosure and public records law).



REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 463-26-030 NEWS RELEASES.