



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: August 14, 1995

(2) Purpose:

Update of EFSEC's air rules to be consistent with the requirements of the 1990 Federal Clean Air Act amendment, Washington's Clean Air Act, and Ecology rules.

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

- Repealed: None
- Amended: Chapter 463-39 WAC
- Suspended: None

(4) Authority for adoption:

- Statute: RCW 80.50.040(1)
- Other Authority: None

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 95-13-039 on June 14, 1995 (date).

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

None

(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

Emergency Rules

- 31 days after filing
- Other (specify) _____ *
- Immediately
- Later (specify) _____

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

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STATE OF WASHINGTON
FILED

AUG 21 1995

TIME: 4:45
WSR: 95-17-088

NAME (TYPE OR PRINT)

Jason Zeller

SIGNATURE

Jason Zeller

TITLE

EFSEC Manager

DATE

8/14/95

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-39-005 Adoption by reference. (1) The energy facility site evaluation council adopts the following sections or subsections of chapter 173-400 WAC by reference.

- 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 173-400-075: Emission standards for sources emitting hazardous air pollutants.
- WAC 173-400-081: Startup and shutdown.
- ~~((WAC 173-400-090))~~
- WAC 173-400-091: Voluntary limits on emissions.
- WAC 173-400-105: Records, monitoring, and reporting.
- WAC 173-400-107: Excess emissions.
- WAC 173-400-110: New source review (NSR).
- WAC 173-400-112: Requirements for new sources in nonattainment areas.
- WAC 173-400-113: Requirements for new sources in attainment or unclassifiable areas.
- WAC 173-400-114: Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.
- 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.

(2) The energy facility site evaluation council adopts the following sections or subsections of chapter 173-401 WAC by reference.

- WAC 173-401-100: Program overview.
- WAC 173-401-200: Definitions.
- WAC 173-401-300: Applicability.
- WAC 173-401-500: Permit applications.
- WAC 173-401-520: Certification.
- WAC 173-401-600: Permit content.

WAC 173-401-605:	Emission standards and limitations.
WAC 173-401-610:	Permit duration.
WAC 173-401-615:	Monitoring and related recordkeeping and reporting requirements.
WAC 173-401-620:	Standard terms and conditions. Except (2) (i)
WAC 173-401-625:	Federally enforceable requirements.
WAC 173-401-630:	Compliance requirements.
WAC 173-401-635:	Temporary sources.
WAC 173-401-640:	Permit shield.
WAC 173-401-645:	Emergency provision.
WAC 173-401-650:	Operational flexibility.
WAC 173-401-700:	Action on application.
WAC 173-401-705:	Requirement for a permit.
WAC 173-401-710:	Permit renewal, revocation and expiration.
WAC 173-401-720:	Administrative permit amendments.
WAC 173-401-722:	Changes not requiring permit revisions.
WAC 173-401-725:	Permit modifications.
WAC 173-401-730:	Reopening for cause.
WAC 173-401-750:	General permits.
WAC 173-401-800:	Public involvement.
WAC 173-401-810:	EPA Review.
WAC 173-401-820:	Review by affected states.

(3) The energy facility site evaluation council adopts the following sections or subsections of chapter 173-406 WAC by reference.

Part I - GENERAL PROVISIONS

<u>WAC 173-406-100:</u>	<u>Acid rain program general provisions.</u>
<u>WAC 173-406-101:</u>	<u>Definitions.</u>
<u>WAC 173-406-102:</u>	<u>Measurements, abbreviations, and acronyms.</u>
<u>WAC 173-406-103:</u>	<u>Applicability.</u>
<u>WAC 173-406-104:</u>	<u>New units exemption.</u>
<u>WAC 173-406-105:</u>	<u>Retired units exemption.</u>
<u>WAC 173-406-106:</u>	<u>Standard requirements.</u>

Part II - DESIGNATED REPRESENTATIVE

<u>WAC 173-406-200:</u>	<u>Designated Representative.</u>
<u>WAC 173-406-201:</u>	<u>Submissions.</u>
<u>WAC 173-406-202:</u>	<u>Objections.</u>

Part III - APPLICATIONS

<u>WAC 173-406-300:</u>	<u>Acid rain permit applications.</u>
<u>WAC 173-406-301:</u>	<u>Requirement to apply.</u>
<u>WAC 173-406-302:</u>	<u>Information requirements for acid rain permit applications.</u>
<u>WAC 173-406-303:</u>	<u>Permit application shield and binding effect of permit application.</u>

Part IV - COMPLIANCE PLAN

<u>WAC 173-406-400:</u>	<u>Acid rain compliance plan and compliance options.</u>
<u>WAC 173-406-401:</u>	<u>General.</u>
<u>WAC 173-406-402:</u>	<u>Repowering extensions.</u>

Part V - PERMIT CONTENTS

<u>WAC 173-406-500:</u>	<u>Acid rain permit.</u>
<u>WAC 173-406-501:</u>	<u>Contents.</u>
<u>WAC 173-406-502:</u>	<u>Permit shield.</u>

Part VI - PERMIT ISSUANCE

<u>WAC 173-406-600:</u>	<u>Acid rain permit issuance procedures.</u>
<u>WAC 173-406-601:</u>	<u>General.</u>
<u>WAC 173-406-602:</u>	<u>Completeness.</u>
<u>WAC 173-406-603:</u>	<u>Statement of basis.</u>
<u>WAC 173-406-604:</u>	<u>Issuance of acid rain permits.</u>
<u>WAC 173-406-605:</u>	<u>Acid rain permit appeal procedures.</u>

Part VII - PERMIT REVISIONS

<u>WAC 173-406-700:</u>	<u>Permit revisions.</u>
<u>WAC 173-406-701:</u>	<u>General.</u>
<u>WAC 173-406-702:</u>	<u>Permit modifications.</u>
<u>WAC 173-406-703:</u>	<u>Fast-track modifications.</u>
<u>WAC 173-406-704:</u>	<u>Administrative permit amendment.</u>
<u>WAC 173-406-705:</u>	<u>Automatic permit amendment.</u>
<u>WAC 173-406-706:</u>	<u>Permit reopenings.</u>

Part VIII - COMPLIANCE CERTIFICATION

<u>WAC 173-406-800:</u>	<u>Compliance certification.</u>
<u>WAC 173-406-801:</u>	<u>Annual compliance certification report.</u>
<u>WAC 173-406-802:</u>	<u>Units with repowering extension plans.</u>

Part IX - NITROGEN OXIDES

<u>WAC 173-406-900:</u>	<u>Nitrogen oxides emission reduction program.</u>
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Part X - SULFUR DIOXIDE OPT-IN

<u>WAC 173-406-950:</u>	<u>Sulfur dioxide opt-ins.</u>
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(4) The energy facility site evaluation council adopts the following sections or subsections of chapter 173-460 WAC by reference.

<u>WAC 173-460-010:</u>	<u>Purpose.</u>
<u>WAC 173-460-020:</u>	<u>Definitions.</u>
<u>WAC 173-460-030:</u>	<u>Requirements, applicability and exemptions.</u>
<u>WAC 173-460-040:</u>	<u>New source review.</u>
<u>WAC 173-460-050:</u>	<u>Requirement to quantify emissions.</u>
<u>WAC 173-460-060:</u>	<u>Control technology requirements.</u>
<u>WAC 173-460-070:</u>	<u>Ambient impact requirement.</u>
<u>WAC 173-460-080:</u>	<u>Demonstrating ambient impact compliance.</u>
<u>WAC 173-460-090:</u>	<u>Second tier analysis.</u>
<u>WAC 173-460-100:</u>	<u>Request for risk management decision.</u>
<u>WAC 173-460-110:</u>	<u>Acceptable source impact levels.</u>
<u>WAC 173-460-120:</u>	<u>Scientific review and amendment of acceptable source impact levels and lists.</u>
<u>WAC 173-460-130:</u>	<u>Fees.</u>
<u>WAC 173-460-140:</u>	<u>Remedies.</u>
<u>WAC 173-460-150:</u>	<u>Class A toxic air pollutants: Known, probable and potential human carcinogens and acceptable source impact levels.</u>

WAC 173-460-160: Class B toxic air pollutants and acceptable source impact levels.

AMENDATORY SECTION (Amending WSR 93-23-035, filed 11/10/93, effective 12/11/93)

WAC 463-39-020 Applicability. The provisions of this chapter shall apply state-wide for those sources under the jurisdiction of the energy facility site evaluation council. The provisions of this chapter shall not apply to those facilities incorporated by reference in chapters 173-400 (~~and~~), 173-401, 173-406, and 173-460 WAC which are not under the jurisdiction of the energy facility site evaluation council.

AMENDATORY SECTION (Amending WSR 93-23-035, filed 11/10/93, effective 12/11/93)

WAC 463-39-030 Additional definitions. (1) "Council" means the energy facility site evaluation council.

(2) In addition to the definitions contained in WAC 173-400-030 (~~and~~), 173-401-200, 173-406-101, "ecology" and "authority" shall be synonymous with the energy facility site evaluation council unless a different meaning is plainly required by context.

AMENDATORY SECTION (Amending WSR 94-16-031, filed 7/26/94, effective 8/26/94)

WAC 463-39-090 Permit application form. (1) Applications for air operating permits shall be on the standard form(s) developed by the department of ecology and shall contain the information required pursuant to WAC 173-401-510.

(2) Applications for permits under chapter 173-406 WAC shall be on form(s) developed by the department of ecology.

NEW SECTION

WAC 463-39-095 Permit issuance. Permit(s) issued for air emissions in accordance with chapters 173-400, 173-401, 173-406, and 173-460 WAC shall become an attachment(s) to a site certification agreement. For new energy facilities the permit(s)

shall be effective upon the governor's approval and execution of the site certification agreement.

NEW SECTION

WAC 463-39-105 Fees. (1) Holders of air operating permits issued to major energy facilities in accordance with RCW 70.04.422 shall be assessed annual fees to recover the costs associated with program development, monitoring, compliance, and administration of the air operating permit program.

(2) All fees recovered under the air operating permit program shall be deposited in the state air operating permit account.

(3) The council shall determine and assess fees for air operating permits based on the following:

(a) Sources which are located in counties having a local air authority shall be assessed fees based upon the fee structure set by that local air authority.

(b) Sources which are located in counties not having a local air authority, or are cogeneration facilities which provide steam and/or electricity to primary industries such as the aluminum or pulp and paper mills, shall be assessed fees based upon the fee structure set by the department of ecology.

(c) Radioactive emissions sources shall be assessed fees consistent with the department of health fee structure.

(d) Department of ecology air operating permit program administration costs shall be charged to all sources under council jurisdiction.

(e) The council shall recover its actual costs for program administration as provided in WAC 463-58-050.

AMENDATORY SECTION (Amending WSR 93-23-035, filed 11/10/93, effective 12/11/93)

WAC 463-39-120 Monitoring and special report. The department of ecology or its designee shall conduct a surveillance program to monitor the quality of the ambient atmospheres to concentrations and movements of air contaminants in accordance with the requirements of chapters 173-400 (~~and~~), 173-401, 173-406, and 173-460 WAC.

As a part of this program, the director of the department of ecology or 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.