



DEPARTMENT OF
ECOLOGY
State of Washington

State Implementation Plan (SIP) Revision

**Including EFSEC's Revised Chapter 463-78
Washington Administrative Code (WAC)**

Rule SIP Revision

September 2016
Public Review Draft

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Air Quality Program
Washington State Department of Ecology
Olympia, Washington

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Table of Contents

	<u>Page</u>
Acronyms and Abbreviations	iv
Executive Summary	v
Introduction.....	1
Background	1
Scope and Purpose of SIP Revision.....	2
Public Involvement	2
What Ecology would like EPA to do?	2
Proposed Revision to Washington State Implementation Plan.....	3
Summary of Changes in EFSEC’s Chapter 463-78 WAC.....	3
Changes in Chapter 173-400 WAC adopted by reference in WAC 463-78-005.....	5
Appendices.....	13
Appendix A. SIP Revision Overview Table	14
Table 1. General overview of the status of sections in Chapter 463-78 WAC and SIP submittal	14
Table 2. General overview of the status of sections in Chapter 173-400 WAC adopted by reference in Chapter 463-78 WAC and SIP submittal.	15
Appendix B. Strikeout Rule Language of Chapter 463-78 WAC proposed for inclusion in Washington SIP.....	21
Appendix C. EFSEC’s request to include portions of Chapter 463-78 WAC in the Washington SIP	31

Acronyms and Abbreviations

CAA	Federal Clean Air Act
Ecology	Washington State Department of Ecology
EFSEC	Energy Facility Site Evaluation Council
EPA	U.S. Environmental Protection Agency
FIP	Federal Implementation Plan
LCAA	Local Clean Air Agency
NAAQS	National Ambient Air Quality Standards
NSPS	New Source Performance Standards
NSR	New Source Review
ORCAA	Olympic Region Clean Air Agency
PSD	Prevention of Significant Deterioration
RCW	Revised Code of Washington
SIP	State Implementation Plan
SWCAA	Southwest Clean Air Agency
WAC	Washington Administrative Code

Executive Summary

The federal Clean Air Act (CAA) authorizes the Environmental Protection Agency (EPA) to adopt National Ambient Air Quality Standards (NAAQS) to protect the public health and welfare. The act requires states to adopt state implementation plans (SIPs) to attain and maintain the latest national air quality standards. When EPA approves including state and local agency regulations in a SIP those regulations become federally enforceable. SIP revisions update EPA approved state rules and programs.

Scope and Purpose

Federal and state regulations authorize the Energy Facility Site Evaluation Council (EFSEC) to implement an air quality permitting program for certain energy facilities in Washington. This SIP revision requests that EPA incorporate revisions of the EFSEC's General and Operating Permit Regulations for Air Pollution Sources (Chapter 463-78 WAC) into the Washington's SIP. EFSEC updated its Chapter 463-78 WAC on July 27, 2015 to get a SIP-approved major New Sources Review (NSR) permitting program. This SIP revision replaces the outdated provisions in Chapter 463-39 WAC currently in the SIP. EFSEC adopted by reference Ecology's Chapter 173-400 WAC as it existed on December 29, 2012, into WAC 463-78-005(1). EPA approved including that regulation into the Washington's SIP applicable in Ecology's jurisdiction. Thus, Ecology requests EPA to approve including it in the SIP applicable sources under EFSEC's jurisdiction.

Currently, EFSEC implements a Prevention of Significant Deterioration (PSD) program through partial delegation of authority from EPA under a Federal Implementation Plan (FIP) that applies in the absence of an approved SIP. Partial delegation requires EPA's final decision on each permit application, after EFSEC reviews the permit application. The PSD permitting program prevents significant deterioration of air quality from new large industrial sources of air pollution to be located in areas that meet the federal air quality standards.

State law (Chapter 80.50 RCW) authorizes EFSEC to monitor compliance and recover the entire cost of processing permit applications. EFSEC maintains the staff resources to implement its air quality program through the ongoing agreements and contracts with Washington State Department of Ecology (Ecology), Olympic Region Clean Air Agency (ORCAA) and Southwest Clean Air Agency (SWCAA).

EPA's approval of this SIP revision will grant EFSEC full authority to issue permits to energy facilities (major and minor sources) under its jurisdiction. EFSEC will accomplish this through their contracts with Ecology and local clean air agencies (LCAAs). This SIP revision will enable the agency to implement a SIP-approved PSD permitting program instead of a delegated PSD program. EFSEC will have more control over the contents and timing of permits for these facilities. This will result in faster permitting than under the current partial delegation agreement. This request also includes transfer of the existing PSD permits issued to energy facilities under EFSEC jurisdiction since August 1977, under terms of a delegation agreement between EPA and EFSEC.

Public Involvement

Ecology invites public comment and offers an opportunity to request a hearing on the proposed SIP revision from September 22, 2016 through November 8, 2016. If requested by 5:00 pm October 24, 2016, Ecology will hold a public hearing on the proposed SIP revision at Ecology Headquarters in Lacey on November 1, 2016 at 1:00 pm. Ecology also offers the hearing via webinar.

Introduction

Background

The federal Clean Air Act (CAA), under Title I, Part A, section 109, authorizes EPA to adopt national ambient air quality standards (NAAQS) for six criteria pollutants (carbon monoxide, lead, nitrogen dioxide, ozone, particulate matters, and sulfur dioxide) to protect public health and welfare. Title I, Part A, Section 110 requires states to adopt the latest NAAQS and submit state implementation plans (SIP) to attain and maintain the NAAQS in their jurisdictions, after notice and public hearing. The SIP is a comprehensive set of documents that the state must update when federal requirements change and/or when the state decides to change its air pollution control strategies to meet the NAAQS. Washington's SIP is composed of the air quality programs and rules of multiple agencies (Ecology, seven local clean air agencies and the Energy Facilities Site Evaluation Council (EFSEC)) that EPA approves as necessary to attain and maintain compliance with the NAAQS. State and local agency regulations which EPA approves into SIPs are federally enforceable. Ecology, as the Governor's designee, submits to EPA these revisions to the Washington SIP and requests EPA approval of the revisions to the Washington SIP.

EFSEC updated its General Regulations for Air Pollution Sources (Chapters 463-78 Washington Administrative Code (WAC)) on July 27, 2015. In its rule, EFSEC adopted by reference many parts of Ecology's Chapter 173-400 WAC that Ecology updated on December 29, 2012. EPA has approved this version of Ecology's rule into the SIP applicable in Ecology's jurisdiction. Therefore, Ecology requests EPA to approve the provisions in Chapter 173-400 WAC that EFSEC adopted by reference for EFSEC's air quality program.

Chapters 70.94 and 80.50 Revised Code of Washington (RCW) authorize EFSEC to implement a statewide air quality program for certain energy facilities in Washington State. Based on the version of EFSEC's regulation approved into the SIP and the terms of the current Prevention of Significant Deterioration (PSD) delegation agreement, EFSEC has a partial delegation of the federal PSD program from EPA. PSD permitting applies to new large industrial sources of air pollution to prevent significant deterioration of air quality due to emissions from these sources located in areas that meet the federal air quality standards. The current partial delegation agreement requires EPA to review permit applications, make Best Available Control Technology (BACT) decisions for most air pollutants, draft permits, and co-sign the final permits. EFSEC and Ecology expect the recently revised EFSEC's rule to meet the CAA requirements and federal regulations, so EPA can approve them into the Washington SIP. This approval will allow EFSEC to implement a SIP-approved PSD permitting program.

RCW 80.50 and 70.94 authorize EFSEC to implement its air quality program, including all air quality permitting, for energy facilities specified in chapter 80.50 RCW. RCW 80.50.071 and RCW 80.50.175 authorize EFSEC to recover the entire cost of processing permit applications and monitoring compliance. EFSEC has ongoing agreements and contracts with Washington State Department of Ecology (Ecology) to conduct new source reviews, provide technical services in rulemaking, and develop SIP submittals applicable to sources under EFSEC's jurisdiction. EFSEC contracts with the Olympic Region Clean Air Agency (ORCAA) and

Southwest Clean Air Agency (SWCAA) to develop Air Operating Permits, and monitor compliance for sources regulated by EFSEC and located in their respective jurisdiction

Scope and Purpose of SIP Revision

Ecology requests EPA to approve portions of EFSEC's revised Chapter 463-78 WAC in the Washington SIP applicable to EFSEC sources. EFSEC updated Chapter 463-78 WAC on July 27, 2015 to be consistent with Ecology's and federal rules in order to receive EPA's approval to implement a SIP-approved PSD permitting program. This SIP revision will:

- Replace portions of EFSEC's Chapters 463-39 WAC in the current Washington SIP with the current provisions in Chapter 463-78 that EFSEC updated in July 27, 2015.
- Enable EFSEC to implement a SIP approved major and minor source new source review permitting program (as required under Title I parts C and D of the CAA) for energy facilities under EFSEC jurisdiction.

Public Involvement

Ecology invites public comment and offers an opportunity to request a hearing on the proposed SIP revision. Ecology will accept comments on this SIP revision from September 22, 2016 through November 8, 2016. Ecology will hold a public hearing on November 1, 2016 to receive comments on the proposed SIP revisions, if requested by October 24, 2016.

What Ecology would like EPA to do?

Ecology requests EPA to approve the portions of revised Chapter 463-78 WAC (updated in July 27, 2015) included in this submittal and replace the provisions of Chapter 463-39 WAC (updated in 1995) that are currently in the Washington SIP applicable to sources under EFSEC.

Specifically, Ecology requests EPA to take the following actions:

- Approve the proposed portions of the revised Chapter 463-78 WAC in the Washington SIP applicable to sources under EFSEC jurisdiction;
- Remove the outdated provisions from the Washington SIP applicable to sources under EFSEC jurisdiction;
- Approve EFSEC's major source, minor source and nonattainment permitting program into the SIP.

Proposed Revision to Washington State Implementation Plan

Energy Facility Site Evaluation Council's (EFSEC's) General and Operating Permit Regulation for Air Pollution Sources (Chapter 463-39 WAC) was last approved by EPA as part of the SIP in 1996. This EPA approved version of EFSEC rule was adopted on August 21, 1995. Since then, EFSEC replaced Chapter 463-39 WAC with Chapter 463-78 WAC. This replacement regulation has not been submitted to EPA for inclusion in the SIP.

This SIP revision requests EPA to include portions of the current Chapter 463-78 WAC (last revised on 7/27/15) in the Washington SIP applicable to the sources under EFSEC's jurisdiction. As part of its Chapter 463-78 WAC, EFSEC adopted by reference portions of Ecology's Chapter 173-400 WAC as it existed on December 29, 2012, with some exceptions. These exceptions are mainly provisions that are not applicable to sources under EFSEC authority or procedures where EFSEC has different requirements under Chapter 80.50 RCW to be met. This chapter provides the details on which parts of the Chapter 463-39 WAC, as it appears in the SIP, need to be updated with parts of Chapter 463-78 WAC. It also briefly explains the reasons for removing, adding or revising the provisions in the Washington SIP applicable to sources under EFSEC's jurisdiction.

In order to show the proposed changes in the SIP, this chapter is organized into two parts. The first part provides details of the provisions of Chapter 463-78 WAC that Ecology proposes to include or not include in the Washington SIP. All the sections of EFSEC's Chapter 463-78 WAC are analyzed to explain why they are proposed to be included or excluded from the Washington SIP applicable in EFSEC's jurisdiction to meet the NAAQS and other requirements of CAA section 110.

The second part provides details on which provisions of Ecology's Chapter 173-400 WAC, EFSEC adopted by reference in WAC 463-78-005, are to be included in the Washington SIP applicable to sources under EFSEC's jurisdiction. EPA has analyzed and approved the current Ecology's Chapter 173-400 WAC and included the required provisions in the SIP applicable in Ecology's jurisdiction. Therefore, the second part is limited to identifying provisions of Chapter 173-400 WAC that have been revised since EPA approved Chapter 463-39 WAC in 1996. Ecology is not proposing to submit provisions that are not required to attain and maintain the NAAQS under title I of the federal Clean Air Act.

Summary of Changes in EFSEC's Chapter 463-78 WAC

- **WAC 463-78-005 Adoption by reference.**
 - This section has five subsections that adopted by reference different Ecology rules. Only the first section, WAC 463-78-005(1), adopts by reference Ecology's Chapter 173-400 WAC and relates to the attainment and maintenance of the NAAQS. The SIP includes WAC 463-39-005(1). Ecology proposes to include only the amendments to WAC 463-78-005(1) in the SIP. The specific provisions of Chapter 173-400 WAC that EFSEC has adopted by reference in this section that Ecology proposes to include in the SIP are explained in the next part of this chapter.

- **WAC 463-78-010 Purpose.**
 - This section is in the SIP. The main change in this section is that EFSEC replaced the reference to 40 C.F.R Part 52 by Chapter 70.94 RCW, as EFSEC’s state authority stems from Chapters 80.50 and 70.94 RCW. Ecology proposes to include the amendments to this section in the SIP.
- **WAC 463-78-020 Applicability.**
 - This section is in the SIP. There is no substantive change. Ecology proposes to include the amendments to this section in the SIP.
- **WAC 463-78-030 Additional definitions.**
 - The main change in this section is that it clarifies EFSEC as the implementing agency for the adopted regulations. Ecology proposes to include this clarification in the SIP, except the definitions in WAC 173-401-200 and WAC 173-406-101.
- **WAC 463-78-070 Radioactive emissions.**
 - This section is not currently in the SIP. Ecology does not propose to include it in the SIP, as the provisions are not related to protecting and attaining the NAAQS or meeting other requirements of Title I section 110 of the federal Clean Air Act.
- **WAC 463-78-90 Permit application form.**
 - This section is related to the Title V permitting program and is not in the SIP. Ecology does not propose to include it in the SIP as this provision is not related to the requirements of Title I of the federal Clean Air Act.
- **WAC 463-78-095 Permit issuance.**
 - The main change in this section is that it now includes additional provisions requiring compliance with the EPA approved SIP before permit issuance. It also include provisions on handling changes in permit and site certification agreement. This section addresses the effective date of permits when issued to new facilities and modifications. This section is in the SIP, and Ecology proposes to include the amendments to this section in the SIP.
- **WAC 463-78-100 Registration.**
 - This section is currently in the SIP. Ecology proposes removing this section from the SIP because the provision is not linked to EFSEC’s new source review (NSR) provisions, and it does not set requirements for pollution control. WAC 173-400-105, which is adopted by reference, establishes the SIP requirement to submit emissions information.
- **WAC 463-78-105 Fees and costs.**
 - This section is not in the SIP. Ecology does not propose to include it in the SIP as the provision is not related to the attainment and maintenance of the NAAQS, or other requirements of section 110 of the federal Clean Air Act.
- **WAC 463-78-115 Standards of performance for new stationary sources (NSPS).**

- This section adopts by reference federal regulation 40 CFR Part 60 that regulate criteria and other non-hazardous air pollutants. The section is not in the SIP. Ecology does not propose to include it in the SIP as the provisions are not required for SIP approval.
- **WAC 463-78-120 Monitoring and special report.**
 - This section is in the SIP. The only changes in the provisions of this section are that EFSEC re-codified the rule and changed the capitalization in the section title. Ecology proposes to include this section in the SIP to replace WAC 463-39-120 that was re-coded without change in the rule language.
- **WAC 463-78-135 Criminal penalties.**
 - This section is in the SIP. EFSEC has amended this section to reference the criminal penalties in RCW 70.94.422. Ecology proposes to include the amendments to this section in the SIP.
- **WAC 463-78-140 Appeals procedure.**
 - This section includes four new sub-sections (1) to (4) setting new detailed appeal requirements for each of the different types of permits issued pursuant to WAC 173-400-110, WAC 173-400-730, WAC 173-401, and WAC 173-406. This section is not in the SIP. Ecology proposes to include subsections (1) and (2) of this section in the SIP because the provisions in WAC 173-400-110 (new source review (NSR) for sources and portable sources) and WAC 173-400-730 (Prevention of Significant Deterioration application processing procedures) are related to the attainment and maintenance of NAAQS.
- **WAC 463-78-170 Conflict of interest.**
 - This section is in the SIP. There are no substantive changes. The council is comprised solely of members that represent the public interest, according to RCW 80.50.30; therefore EFSEC meets the CAA requirements of Title I section 128. Ecology proposes to include this section in the SIP.
- **WAC 463-78-230 Regulatory actions.**
 - This section is in the SIP. There are no substantive changes. Ecology proposes to include the amendments to this section in the SIP.

Changes in Chapter 173-400 WAC adopted by reference in WAC 463-78-005

As part of its General and Permitting Regulation for Air Pollution Sources (Chapter 463-78 WAC), EFSEC adopted by reference portions of Ecology's General Regulation for Air Pollution Sources (Chapter 173-400 WAC) as it existed on December 29, 2012, with some exceptions. These exceptions were made mainly because the provisions are outside of EFSEC's authority (examples: designation of areas into class I, II and III), or EFSEC has an alternative authority under RCW 80.50 (examples: appeals, council members, fees, enforcement actions, etc.), or do not apply to the sources in EFSEC's jurisdiction (example: retrofit requirements for visibility protection).

EPA recently analyzed and approved into the SIP provisions in Ecology's Chapter 173-400 WAC (updated on 12/29/12) as applicable in Ecology's jurisdiction. That proposed SIP revision request is available at: <https://fortress.wa.gov/ecy/publications/SummaryPages/1302039.html>. It can also be found using its publication no. 13-02-039 at: <https://fortress.wa.gov/ecy/publications/UIPages/Home.aspx>.

EPA's approval of Ecology's request was published in federal register in three parts: General Regulations for Air Pollution Sources on FR 59653 of October 3, 2014; Nonattainment New Source Review on FR 66291 of November 7, 2014; and Prevention of Significant Deterioration and Visibility Protection 23721 of April 29, 2015. Summary of these EPA approved provisions is available in table 2 of 40 CFR 52.2470(c) table 2 and (e) table 1 at http://www.ecfr.gov/cgi-bin/text-idx?SID=998e9092d5d7235b7b96b36baef5e9f1&mc=true&node=se40.5.52_12470&rgn=div8.

This section identifies provisions of Ecology's Chapter 173-400 WAC that EFSEC adopted by reference and that differ from provisions in the EPA approved Chapter 463-39 WAC from 1996. Ecology, proposes including the following changes in WAC 463-78-005 in the Washington SIP applicable to sources under EFSEC's jurisdiction.

- **WAC 173-400-030: Definitions.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction. The section expands the number of definitions from 81 to 97. The section also amends some of the 81 original definitions. All the definitions, except definition # 91 (toxic air pollutant), are in the SIP applicable in Ecology's jurisdiction. Ecology proposes to EPA to include the amendments in this section into the SIP applicable to sources under EFSEC's jurisdiction, except WAC 173-400-030 (91).
- **WAC 173-400-036: Relocation of portable sources. (New section)**
 - EFSEC newly adopted this section by reference. EPA approved it to be in the SIP applicable in Ecology's jurisdiction. Ecology proposes to include it in the SIP applicable to sources under EFSEC's jurisdiction.
- **WAC 173-400-040: General standards for maximum emissions.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction. Ecology revised the section. EPA has approved this section to be in the SIP applicable in Ecology's jurisdiction with some exceptions. EFSEC has adopted Ecology's revised section 040. Ecology proposes EPA include the amended section into the SIP, except WAC 173-400-040(2)(c) and (d), (3), (5), and the second paragraph in (7). These exceptions are the same in the SIP applicable in Ecology's jurisdiction.
- **WAC 173-400-050: Emission standards for combustion and incineration units.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and Ecology has revised it. EPA has approved this section to be in the SIP applicable in Ecology's jurisdiction except WAC 173-400-040(2), (4), and (5). Therefore, Ecology proposes EPA include the amendments in this section into the SIP,

except WAC 173-400-050(2), (4) and (5). These exceptions are the same as in the SIP applicable in Ecology's jurisdiction.

- **WAC 173-400-060: Emission standards for general process units.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and Ecology has revised it. EPA has approved this section to be in the SIP applicable in Ecology's jurisdiction. Ecology proposes EPA include the amendments in this section into the SIP.
- **WAC 173-400-070: Emission standards for certain source categories.**
 - EFSEC newly adopted this section; specifically sub-section (5) and (7). EPA has approved this section to be in the SIP applicable in Ecology's jurisdiction except WAC 173-400-070(7) and (8). Ecology proposes to include **only WAC 173-400-070(5) (Catalytic Cracking Unit)** in the SIP.
- **WAC 173-400-081: Startup and shutdown.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and Ecology has revised it with no substantive change. Ecology proposes EPA include the revision to this section into the SIP.
- **WAC 173-400-091: Voluntary limits on emissions.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and Ecology has revised it with no substantive change. Ecology proposes EPA include the revision to this section into the SIP.
- **WAC 173-400-105: Records, monitoring, and reporting.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and Ecology has revised it. EPA has approved this section to be in the SIP applicable in Ecology's jurisdiction. Therefore Ecology proposes to EPA to include the amendments in this section into the SIP.
- **WAC 173-400-107: Excess emissions.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and it has not been revised. Ecology proposes not to submit any changes to this section in the SIP, until Ecology has revised WAC 173-400-107 to 109 according to the startup, shutdown and malfunction (SSM) SIP call by EPA. Then, EFSEC can adopt Ecology's revised sections by reference, and another SIP submittal can be proposed to include these sections in the SIP applicable to EFSEC jurisdiction.
- **WAC 173-400-110: New Source Review (NSR) for sources and portable sources.**
 - This section is in the SIP applicable to sources under EFSEC's jurisdiction, and has been substantially revised since that time. The main change is that this section sets the criteria (de minimus emission unit, activity and annual emission threshold) for the applicability of the NSR permitting program. The criteria for the NSR permitting program was changed from requiring minor NSR permitting of sources on a list to requiring minor NSR for all new or modified sources unless they are listed as de minimis sources and not subject to permitting.

- EPA has approved this section to be in the SIP applicable in Ecology’s jurisdiction with some exceptions. Therefore, Ecology proposes EPA include the amendments in this section into the SIP for sources under EFSEC’s jurisdiction, except 173-400-110(1)(c)(ii)(C), 173-400-110(1)(e) and 173-400-110(2)(d) and all references to “toxic air pollutants” and “Chapter 173-460”. Specifically, these phrases are in WAC 173-400-100(4)(b)(vi), 173-400-110(4)(e)(iii), 173-400-110(4)(f)(i), 173-400-110(4)(h)(xviii), 173-400-110(4)(h)(xxxiii) to (xxxvi), 173-400-110(4)(h)(xl) the second sentence, and the last row of the table in 173-400-110(5)(b) regarding exemption levels for toxic air pollutants. All these exceptions are the same as in the SIP applicable in Ecology’s jurisdiction.
- **WAC 173-400-111: Processing notice of construction applications for sources, stationary sources and portable sources.**
 - This section did not exist when EPA approved Chapter 463-39 WAC. It was part of section 110 which was approved by EPA in the SIP.EFSEC adopted by reference this section in its Chapter 463-78 WAC, except the last six words in (5)(a) and sub-sections (6) and (9). These exceptions refers to: 1) “pollution control hearings board”, which does not hear appeals of permits issued to sources under EFSEC’s jurisdiction; and 2) Chapter 173-455 WAC, which is Ecology’s version of WAC 463-78-105.
 - EPA has approved this section to be in the SIP applicable in Ecology’s jurisdiction, except 111(3)(h), (9), and the part that says “and 173-460-040” in 111(8)(a)(v), because these exceptions refer to “toxic air pollutant” or “Chapter 173-460”, which are not related to criteria pollutants. Therefore, Ecology proposes EPA include this section in the SIP applicable to sources under EFSEC’s jurisdiction, except (3)(h); (5)(a), the last six words; (6); (9); and the part of 173-400-111(8)(a)(v) that says “and 173-460-040”.
- **WAC 173-400-112: Requirements for new sources in nonattainment areas.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and has been substantially revised to remove the nonattainment NSR permitting requirements to new sections 800-850. EPA has approved the revised section as part of the SIP applicable in Ecology’s jurisdiction. Therefore, Ecology proposes EPA include the amendments in this section into the SIP.
- **WAC 173-400-113: Requirements for new sources in attainment or unclassifiable areas.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and has been revised. EPA has approved the revised section to be in the SIP applicable in Ecology’s jurisdiction, except the second sentence in subsection 113(3). Ecology proposes EPA include the amendments in this section into the SIP, **except the second sentence in 173-400-113(3)**. This exception is the same in the SIP applicable in Ecology’s jurisdiction.
- **WAC 173-400-114: Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.**

- EFSEC adopted by reference this section in its Chapter 463-39 WAC (equivalent to the current Chapter 463-78 WAC), but it is not in the SIP. Ecology didn't request EPA to include this section in the SIP applicable in Ecology's jurisdiction. Therefore, Ecology **does not** proposes EPA include this section in the SIP applicable to sources under EFSEC's jurisdiction.
- **WAC 173-400-116: Increment protection.**
 - EFSEC newly adopted this section by reference in its Chapter 463-78 WAC. EPA has approved this section to be in the SIP applicable in Ecology's jurisdiction. Thus, Ecology proposes EPA include this section into the SIP applicable to sources under EFSEC jurisdiction.
- **WAC 173-400-117: Special protection requirements for federal Class I areas.**
 - EFSEC newly adopted this section by reference in its Chapter 463-78 WAC; and Ecology proposes EPA include this section into the SIP.
- **WAC 173-400-120: Bubble rules.**
 - This section was adopted by reference in the Chapter 463-39 WAC that was effective on 08/21/95, but it is not in the SIP applicable to sources under EFSEC's jurisdiction. Ecology didn't request EPA to include this section in the SIP applicable in Ecology's jurisdiction. Therefore, Ecology **does not** propose EPA include this section in the SIP applicable to sources under EFSEC's jurisdiction.
- **WAC 173-400-131: Issuance of emission reduction credits.**
 - This section was adopted by reference in the Chapter 463-39 WAC that was effective on 08/21/95, but it is not in the SIP applicable to sources under EFSEC's jurisdiction. Ecology has revised the section and EPA has approved the revised section in the SIP applicable in Ecology's jurisdiction. Therefore, Ecology proposes EPA include this revised section into the SIP applicable to sources under EFSEC jurisdiction.
- **WAC 173-400-136: Use of emission reduction credits.**
 - This section was adopted by reference in the Chapter 463-39 WAC that was effective on 08/21/95, but it was not in the SIP. Ecology has revised the section and EPA has approved the revised section in the SIP applicable in Ecology's jurisdiction. Therefore, Ecology proposes to EPA to include this section into the SIP applicable in EFSEC jurisdiction.
- **WAC 173-400-151 Retrofit Requirements for Visibility Protection.**
 - This section is in the EPA approved SIP applicable to sources under EFSEC jurisdiction. Ecology has revised the section since this SIP approval, but EFSEC did not adopt the revision into its rule. This section is to establish Best Available Retrofit Technology (BART) for existing facilities (operational after August 7, 1962 and in existence in August 7, 1977) that meets specific criteria. Ecology and EFSEC have confirmed that there are no sources under EFSEC jurisdiction that meet the statutory definition of existing facility for BART. Therefore, Ecology proposes EPA **remove** this section from EFSEC's portion of the SIP.

- **WAC 173-400-161: Compliance schedules.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and Ecology has not revised the section. Therefore, Ecology does not propose to re-submit this section in this SIP revision.
- **WAC 173-400-171: Public involvement.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and has been revised substantially since approval into the SIP. EPA has approved this section to be in the SIP applicable in Ecology’s jurisdiction, with some exceptions. Ecology proposes EPA include the revised section into the SIP, **except for WAC 173-400-171(12) and the part of WAC 173-400-171(3)(b) that says** “any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173-460 WAC”. These exceptions are the same as for Ecology’s jurisdiction and are related to “toxic air pollutants” or special requirements that are applicable to Ecology only.
- **WAC 173-400-175: Public information.**
 - EFSEC newly adopted this section by reference in its Chapter 463-78 WAC. EPA has approved this section to be in the SIP applicable in Ecology’s jurisdiction. Therefore, Ecology proposes EPA include this section into the SIP applicable to sources under EFSEC jurisdiction.
- **WAC 173-400-180: Variance.**
 - This section was adopted by reference in the Chapter 463-39 WAC that was effective on 08/21/95; but it was not in the SIP applicable in EFSEC’s jurisdiction. Ecology didn’t request EPA to include this section in the SIP applicable in Ecology’s jurisdiction. Therefore, Ecology **does not** propose EPA include this section in the SIP applicable in EFSEC’s jurisdiction.
- **WAC 173-400-190: Requirements for nonattainment areas.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and Ecology has not revised the section. Therefore, Ecology does not propose to re-submit EFSEC’s adoption of this section in this SIP revision.
- **WAC 173-400-200: Creditable stack height and dispersion techniques.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and has been revised by Ecology. EPA has approved this section to be in the SIP applicable in Ecology’s jurisdiction. Therefore, Ecology proposes EPA include this section in the SIP applicable to sources under EFSEC jurisdiction.
- **WAC 173-400-205: Adjustment for atmospheric conditions.**
 - This section is in the SIP applicable to sources under EFSEC’s jurisdiction, and Ecology has not revised this section. Therefore, Ecology does not propose to re-submit this section in this SIP revision.

Provisions for Permitting of Major Stationary Sources and Major Modifications to Major Stationary Sources:

EFSEC adopted by reference the following sections from Ecology's Chapter 173-400 WAC to provide permitting criteria and processes for new major stationary sources and major modifications at existing stationary sources under its jurisdiction that are located in attainment or unclassifiable areas, or in nonattainment areas. When these sources are located in areas in attainment or unclassifiable with the National Ambient Air Quality Standards (NAAQS), EFSEC will be using WAC 173-400-700 through WAC 173-400-750 as its program to prevent significant deterioration of ambient air quality so that the NAAQS are not violated. Similarly, when such sources are located in non-attainment areas with NAAQS, EFSEC will be regulating them according to WAC 173-400-800 through WAC 173-400-860 for the pollutants and precursors for which the area is classified nonattainment.

There are specific Ecology PSD program provisions that EFSEC did not adopt by reference, or provisions that were adopted by reference with some modification are the following:

- WAC 173-400-720(4)(a)(vi): This provision is adopted by reference except that the effective date of incorporating by reference the federal regulation 40 CFR 52.21 was changed to May 1, 2015. This change was made to incorporate EPA's action to resolve court decisions to vacate provisions related the significant impact levels (SILs) of PM2.5 (40 CFR 52.21(k)(2)) and significant monitoring concentrations (SMCs) of PM2.5 (40CFR 52.21(i)(5)(i)).
- WAC 173-400-730 (4): Appeals. This provision was not adopted by reference because the sources under EFSEC's jurisdiction are not required to appeal to "pollution control hearing board", as stated in this provision.
- WAC 173-400-750(2), second sentence: This provision was not adopted by reference because the fee schedule in Chapter 173-455 WAC is not applicable to sources under EFSEC's jurisdiction.

EPA has approved the following sections of Chapter 173-400 WAC to be in the SIP applicable in Ecology's jurisdiction with some exceptions that are identified below. Therefore, Ecology proposes EPA include all these sections, other than the change and exceptions explained in the previous paragraph, in the SIP applicable to sources under EFSEC's jurisdiction.

- **WAC 173-400-700: Review of major stationary sources of air pollution.**
- **WAC 173-400-710: Definitions.**
- **WAC 173-400-720: Prevention of significant deterioration (PSD).** The exceptions that Ecology does not propose EPA include in the SIP are 173-400-720(4)(a)(i through iv); 173-400-720(4)(b)(iii)(C); and 173-400-720(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(49)(v).
- **WAC 173-400-730: Prevention of significant deterioration application processing procedures, except sub-section (4).**
- **WAC 173-400-740: PSD permitting public involvement requirements.**

- **WAC 173-400-750: Revisions to PSD permits, except the second sentence in subsection (2).**
- **WAC 173-400-800: Major stationary source and major modification in a nonattainment area.**
- **WAC 173-400-810: Major stationary source and major modification definitions.**
- **WAC 173-400-820: Determining if a new stationary source or modification to a stationary source is subject to these requirements.**
- **WAC 173-400-830: Permitting requirements.**
- **WAC 173-400-840: Emission offset requirements.**
- **WAC 173-400-850: Actual emissions plantwide applicability limitation (PAL).**
- **WAC 173-400-860: Public involvement procedures.**

Appendices

Appendix A. SIP Revision Overview Table – Chapter 463-78 WAC

Appendix B. Strikeout Rule Language in Chapter 463-78 WAC proposed for inclusion in SIP

Appendix C. EFSEC's SIP Submittal Request Letter

Appendix A. SIP Revision Overview Table

Table 1. General overview of the status of sections in Chapter 463-78 WAC and SIP submittal.

Sections of Chapter 463-78 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
			What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
Section	Section Title		Revise	Remove	New	Unchanged		
005	Adoption by reference. Except		X					
	(2), (3), (4), and (5)							X
010	Purpose.	Revised, in the SIP	X					
020	Applicability.	Revised, in the SIP	X					
030	Additional definitions, except	Revised, in the SIP	X					
	(2) the part that says “173-401-200, 173-406-101”	Revised, not in the SIP						X
070	Radioactive emissions.	Not in the SIP						X
090	Permit application form	Not in the SIP						X
095	Permit issuance.	Revised, in SIP	X					
100	Registration.	Remove from SIP		X				
105	Fees and cost.	Not in the SIP						X
115	Standards of performance for new stationary sources	Not in the SIP						X
120	Monitoring and special report	In the SIP	X					
135	Criminal penalties.	In the SIP	A					
140	Appeals procedure.	Revised, in SIP	A					
170	Conflict of interest.	In the SIP	A					
230	Regulatory actions.	In the SIP	A					

N.B.: Sections marked X are proposed to be adopted by reference (ABR) by EPA, while those marked A are to be approved, not ABR.

Table 2. General overview of the status of sections in Chapter 173-400 WAC adopted by reference in Chapter 463-78 WAC and SIP submittal.

Sections of Chapter 173-400 WAC Adopted by Reference in 463-78-005 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
Section	Section Title		What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
			Revise	Remove	New	Unchange		
030	Definitions, except (91)	Revised, in the SIP	X					
		New, not in the SIP						X
036	Relocation of portable sources.	New, in the SIP			X			
040	General standards for maximum emissions, except (2)(c) and (d); (3); (5); (7), second paragraph	Revised, in the SIP	X					
		Revised, not in the SIP						X
050	Emission standards for combustion and incineration units. except (2) (4), (5)	Revised, in the SIP	X					
		Remove, not in the SIP		X				
		New, not in the SIP						X
060	Emission standards for general process units.	Revised, in the SIP	X					
070	Emission standards for certain source categories, except: (1); (2); (3); (4); (6); (7) and (8)	New, in the SIP			X			
		New, not in the SIP						X
075	Emission standards for sources emitting hazardous air pollutants.	Revised, not in the SIP						X
081	Startup and shutdown.	Revised, in the SIP	X					
091	Voluntary limits on emissions.	Revised, in the SIP	X					
105	Records, monitoring, and reporting.	Revised, in the SIP	X					
107	Excess emissions.	Revised, not in the SIP					X	

Sections of Chapter 173-400 WAC Adopted by Reference in 463-78-005 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
Section	Section Title		What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
			Revise	Remove	New	Unchange		
110	New source review (NSR) for sources and portable sources, except:	Revised, in the SIP	X					
	(1)(c)(ii)(C); (1)(e); (2)(d); and	Revised, not in the SIP						X
	The following parts of sub-section (4) and (5) that refer to “toxic air pollutants and/or “chapter 173-460 WAC”							
	<ul style="list-style-type: none"> (4)(b)(vi) that says, “not for use with materials containing toxic air pollutants, as listed in chapter 173-460 WAC.”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (4)(e)(iii) that says, “where toxic air pollutants as defined in chapter 173-460 WAC are not emitted”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (4)(f)(i) that says, “that are not toxic air pollutants listed in chapter 173-460 WAC”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (4)(h)(xviii) that says, “, to the extent that toxic air pollutant gases as defined in chapter 173-460 WAC are not emitted”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (4)(h)(xxxiii) that says, “where no toxic air pollutants as listed under chapter 173-460 WAC are emitted”; 	Revised, not in the SIP						X

Sections of Chapter 173-400 WAC Adopted by Reference in 463-78-005 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
Section	Section Title		What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
			Revise	Remove	New	Unchange		
	<ul style="list-style-type: none"> (4)(h)(xxxiv) that says, “, or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173-460 WAC”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (4)(h)(xxxv) that says, “or ≤ 1% (by weight) toxic air pollutants”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (h)(xxxvi) that says, “or ≤ 1% (by weight) toxic air pollutants as listed in chapter 173-460 WAC”; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> (4)(h)(xl) , second sentence; 	Revised, not in the SIP						X
	<ul style="list-style-type: none"> The last row of the table in 173-400-110(5)(b) regarding exemption levels for Toxic Air Pollutants. 	Revised, not in the SIP						X
111	Processing notice of construction applications for sources, stationary sources and portable sources.	Revised, in the SIP	X					
	(5)(a)(last six words); (6); and (9)	Not adopted by reference						X
	(3)(h); (8)(a)(v) that says , “and 173-460-040”.	Revised, not in the SIP						X
112	Requirements for new sources in nonattainment areas.	Revised, in the SIP	X					
113	Requirements for new sources in attainment or unclassifiable areas.		X					
	Second sentence in (3)	Revised, not in the SIP						X

Sections of Chapter 173-400 WAC Adopted by Reference in 463-78-005 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
Section	Section Title		What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
			Revise	Remove	New	Unchange		
114	Requirements for replacement or substantial alteration of emission control technology at an existing stationary source.	Revised, not in the SIP						X
116	Increment protection.	New, in the SIP			X			
117	Special protection requirements for federal Class I areas.	New, in the SIP			X			
120	Bubble rules.	Revised, out of the SIP						X
131	Issuance of emission reduction credits.	New, in the SIP			X			
136	Use of emission reduction credits.	New, in the SIP			X			
151	Retrofit requirements for visibility protection.	Remove from the SIP		X				
161	Compliance schedules.	Unchanged, in the SIP					X	
171	Public involvement, except (3)(b) that says “or any increase in emissions of a toxic air pollutant above the acceptable source impact level for that toxic air pollutant as regulated under chapter 173-460 WAC”; (12)	Revised, in the SIP		X				
		Revised, out of the SIP						X
175	Public information.	New, in the SIP			X			
180	Variance.	New, not in the SIP						X
190	Requirements for nonattainment areas.	Unchanged, in the SIP					X	
200	Creditable stack height and dispersion techniques.	Revised, in the SIP	X					
205	Adjustment for atmospheric conditions.	Unchanged, in the SIP					X	

Sections of Chapter 173-400 WAC Adopted by Reference in 463-78-005 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
Section	Section Title		What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
			Revise	Remove	New	Unchange		
700	Review of major stationary sources of air pollution.	New, in the SIP			X			
710	Definitions.	New, in the SIP			X			
720	Prevention of significant deterioration (PSD), except:	New, in the SIP			X			
	(4)(a)(i) through (iv); (4)(b)(iii)(C);	New, not in the SIP						X
	(4)(a)(vi) with respect to the incorporation by reference of the text in 40 CFR 52.21(b)(v). N.B.: EFSEC adopted by reference the WAC 173-400-720(4)(a)(vi) as existed on May 1, 2015 for the purpose of incorporating 40 CFR 52.21 that has corrected court vacated provision related to PM2.5 significant impact level (SILs) and significant monitoring concentrations (SMCs) .	New, not in the SIP						X
730	Prevention of significant deterioration application processing procedures, except	New, in the SIP			X			
	(4)	Not adopted by reference						X
740	PSD permitting public involvement requirements.	New, in the SIP			X			
750	Revisions to PSD permits, except:	New, in the SIP			X			
	(2), second sentence	Not adopted by reference						
800	Major stationary source and major modification in a nonattainment area.	New, in the SIP			X			

Sections of Chapter 173-400 WAC Adopted by Reference in 463-78-005 WAC		Status of the Rule Section in the SIP	In this SIP Submittal				Not in this SIP Submittal	
Section	Section Title		What is different since the last SIP approval?				This provision is already in the SIP. No revisions.	Not being submitted in the SIP
			Revise	Remove	New	Unchange		
810	Major stationary source and major modification definitions.	New, in the SIP			X			
820	Determining if a new stationary source or modification to a stationary source is subject to these requirements.	New, in the SIP			X			
830	Permitting requirements.	New, in the SIP			X			
840	Emission offset requirements.	New, in the SIP			X			
850	Actual emissions plantwide applicability limitation (PAL).	New, in the SIP			X			
860	Public involvement procedures.	New, in the SIP			X			

Appendix B. Strikeout Rule Language of Chapter 463-78 WAC proposed for inclusion in Washington SIP

WAC 463-~~3978~~ -- GENERAL AND OPERATING PERMIT REGULATIONS FOR AIR POLLUTION SOURCES

WAC 463-~~3978~~-005 Adoption by Refereneference. (1) The energy facility site evaluation council adopts the following sections or subsections of chapter 173-400 WAC, as it existed on December 29, 2012, with the exceptions that (a) WAC 173-400-111 (5)(a) (last six words), (6), (9), and WAC 173-400-720 is adopted except the date in WAC 173-400-720 (4)(a)(vi) is May 1, 2015, and WAC 173-400-730 (4) and 173-400-750(2) by reference, and (b) the terms “ecology,” “authority,” “director,” and “permitting authority” in WAC 173-400-030 shall mean “the energy facility site evaluation council” unless a different meaning is plainly required by the context.

WAC 173-400-030:	Definitions.
<u>WAC 173-400-036:</u>	<u>Relocation of portable sources.</u>
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.
<u>WAC 173-400-070</u> <u>(5) and (7) only:</u>	<u>Emission standards for certain source categories</u>
WAC 173-400-075:	Emission standards for sources emitting hazardous air pollutants.
WAC 173-400-081:	Startup and shutdown.
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).
<u>WAC 173-400-111:</u>	<u>Processing notice of construction applications for sources, stationary sources and portable sources.</u>
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.
<u>WAC 173-400-116:</u>	<u>Increment protection.</u>
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.
<u>WAC-173-400-700:</u>	<u>Review of major stationary sources of air pollution.</u>
<u>WAC-173-400-710:</u>	<u>Definitions.</u>
<u>WAC-173-400-720:</u>	<u>Prevention of significant deterioration (PSD).</u>
<u>WAC-173-400-730:</u>	<u>Prevention of significant deterioration application processing procedures.</u>
<u>WAC-173-400-740:</u>	<u>PSD permitting public involvement requirements.</u>
<u>WAC-173-400-750:</u>	<u>Revisions to PSD permits.</u>
<u>WAC-173-400-800:</u>	<u>Major stationary source and major modification in a nonattainment area.</u>
<u>WAC-173-400-810:</u>	<u>Major stationary source and major modification definitions.</u>
<u>WAC-173-400-820:</u>	<u>Determining if a new source or modification to a stationary source is subject to these requirements.</u>
<u>WAC-173-400-830:</u>	<u>Permitting requirements.</u>
<u>WAC-173-400-840:</u>	<u>Emission offset requirements.</u>
<u>WAC-173-400-850:</u>	<u>Actual emissions plantwide applicability limitation (PAL).</u>
<u>WAC-173-400-860:</u>	<u>Public Involvement procedures.</u>

WAC 463-~~3978~~-010 Purpose. The energy facility site evaluation council, under the authority vested in it by ~~chapter-chapters~~ 80.50 and ~~40 C.F.R. Part 52-70.94 RCW~~, is charged with responsibilities for the conduct of a ~~state-wide~~statewide 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.

WAC 463-~~3978~~-020 Applicability. The provisions of this chapter shall apply ~~state wide~~statewide 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, 173-401, 173-406, and 173-460 WAC which are not under the jurisdiction of the energy facility site evaluation council.

WAC 463-~~3978~~-030 Additional Definitions. (1) "Council" means the energy facility site evaluation council.

(2) In addition to the definitions contained in WAC 173-400-030, 173-400-710, 173-400-810, 173-401-200, 173-406-101, "ecology," "authority," "director," and "permitting authority" shall be synonymous with the energy facility site evaluation council unless a different meaning is plainly required by context.

WAC 463-~~3978~~-095 Permit Issuance. (1) Permit(s) issued for air emissions in accordance with chapters ~~173-400, 173-401, 173-406, and 173-460~~463-78 WAC shall become an attachment(s) to a site certification agreement.

(2) For new energy facilities the permit(s) shall be conditioned upon compliance with all provisions of the federally approved state implementation plan which apply to energy facilities and effective upon the governor's approval and execution of the site certification agreement.

(3) Except as provided in subsection (4) of this section, for certified energy facilities, any change in terms or conditions, extensions, revision or reissuance of permit(s) issued for air emissions in accordance with chapter 463-78 WAC, shall be governed by applicable law and regulation and shall not require modification of the site certification agreement, or governor approval.

(4) Permit(s) for air emissions revised or issued in conjunction with a request for amendment of a site certification agreement that requires governor approval under 463-66-080, shall be conditioned upon compliance with all provisions of the federally approved state implementation plan which apply to energy facilities and effective upon the signed approval of the governor of Washington State.

WAC 463-~~3978~~-100 Registration. (1) Purpose. The registration program is used by the council to develop and maintain a current and accurate record of air contaminant sources subject to chapter 80.50 RCW. Information collected through the registration program is used to evaluate the effectiveness of air pollution strategies in collaboration with the department of ecology, and to verify source compliance with applicable air pollution requirements.

(2) Requirement to register. Except as provided in subsection (3) of this section, The the owner or operator of each stationary-source subject to chapter 80.50 RCW shall register the source with the council. Sources subject to the Operating permit regulation in chapter 173-401 WAC are not required to comply with these registration requirements.

Registration shall be on forms which have been adopted for use by the department of ecology within the time specified thereon.

(3) The following sources are exempt from registration:

(a) A source that emits pollutants below the following emission rates:

<u>Pollutant</u>	<u>Tons/Year</u>
<u>Carbon monoxide. . . .</u>	<u>- 5.0</u>
<u>Nitrogen oxides. . . .</u>	<u>- 2.0</u>
<u>Sulfur dioxide. . . .</u>	<u>- 2.0</u>
<u>Particulate Matter (PM). . . .</u>	<u>- 1.25</u>
<u>Fine Particulate (PM10). . . .</u>	<u>- 0.75</u>
<u>Volatile Organic Compounds (VOC). . . .</u>	<u>- 2.0</u>
<u>Lead. . . .</u>	<u>- 0.005</u>

; and

(b) A source or emission unit that does not emit measurable amounts of Class A or Class B toxic air pollutants specified in WAC 173-460-150 and 173-460-160.

(4) Initial registration. The owner or operator of a source that exists on the effective date of this rule must register the source with the council by no later than one year after the effective date of this rule. The owner or operator of a new source must register with the council within ninety days after beginning operation.

(5) Annual reregistration. After initial registration, the owner or operator of a source must reregister with the council by February 15 of each year. The reregistration must include all of the information required in the initial registration and must be updated to reflect any changes to such information since the previous registration. For information that has not changed since the previous registration, the owner or operator may reaffirm in writing the correctness and current status of the information previously furnished to the council.

(6) Registration format. Registration shall be in a format approved by the council. Each registration submittal shall include the following information:

(a) Name of the source and the nature of the business;

(b) Street address, telephone number, facsimile number, and e-mail address of the source;

(c) Name, mailing address, telephone number, facsimile number and e-mail address of the owner or operator;

(d) Name, mailing address, telephone number, facsimile number and e-mail address of the local individual responsible for compliance with this rule;

(e) Name, mailing address, telephone number, facsimile number and e-mail address of the individual authorized to receive requests for data and information;

(f) A description of the production processes and a related flow chart;

(g) Identification of emission units and air pollutant generating activities;

(h) A plot plan showing the location and height of all emission units and air pollutant generating activities. The plot plan must also show the property lines of the air pollution source and indicate the distance to and direction of the nearest residential or commercial property;

(i) Type and quantity of fuels, including the sulfur content of fuels, used on a daily and annual basis;

(j) Type and quantity of raw materials used on a daily and annual basis;

(k) Estimates of the total actual emissions for the air pollution source of the following air pollutants: Particulate matter emissions, PM10 emissions, sulfur dioxide (SO₂), nitrogen oxides (NO_x), carbon monoxide (CO), volatile organic compounds (VOC), lead (Pb), fluorides, sulfuric acid mist, hydrogen sulfide (H₂S), total reduced sulfur (TRS), and reduced sulfur compounds;

(l) Calculations used to determine the estimated emissions in (k) of this subsection;

(m) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions; and

(n) Any other information specifically requested by the council.

(7) Procedure for estimating emissions. The registration submittal must include an estimate of actual emissions taking into account equipment, operating conditions, and air pollution control measures. The emission estimates must be based upon actual test data, or in the absence of such data, upon procedures acceptable to the council. Any emission estimates submitted to the council must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

- (a) Source-specific emission tests;
 - (b) Mass balance calculations;
 - (c) Published, verifiable emission factors that are applicable to the source;
 - (d) Other engineering calculations; or
 - (e) Other procedures to estimate emissions specifically approved by the council.
- (8) Other reports required.

(a) A report of closure shall be filed with the council within ninety days after operations producing emissions permanently ceased at any source within the council's jurisdiction.

(b) A report of relocation of the source shall be filed with the council no later than ninety days prior to the relocation of the source. Submitting a report of relocation does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC, nor does it relieve the owner or operator from the requirement to obtain a permit or approval to construct if the relocation of the air pollution source would be a new source or modification subject to any federal or state permit to construct rule.

(c) A report of change of owner or operator shall be reported to the council within ninety days after the change in ownership is effective. Submitting the report of change of ownership does not relieve the owner or operator of other site certification agreement amendment requirements pursuant to chapter 463-66 WAC.

(9) Certification of truth and accuracy. All registrations and reports must include a certification by the owner or operator as to the truth, accuracy, and completeness of the information. This certification must state that, based on information and belief formed after reasonable inquiry, the statements and information are true, accurate, and complete.

(210) The council shall ensure that the following, as it pertains to sources covered under this rule, is passed on to ecology in a timely manner for inclusion in its permit register:

- (a) Public meetings or hearings on draft operating permits;
- (b) Receipt of complete applications;
- (c) Permit appeals;
- (d) Issuance or denial of final permit, permit modifications, or renewals;
- (e) Authorization for a source to operate without an operating permit by limiting its potential to emit to levels below those that would require the source to obtain an operating permit;

(f) Periodic summaries of enforcement order and changes made without revising the permit pursuant to WAC 173-401-722.

WAC 463-~~3978~~-120 Monitoring and ~~Special-special Reportreport~~. 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, 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.

WAC 463-~~3978~~-135 Criminal ~~Penalties-penalties~~. Persons in violation of this chapter may be subject to the provisions of chapter 80.50 RCW and RCW 70.94.422.

WAC 463-78-140 Appeals procedure. (1) Appeal of permits issued pursuant to WAC 173-400-110.

(a) Any conditions contained in an order of approval, or the denial of a notice of construction application issued by the council pursuant to the requirements of WAC 173-400-110 may be appealed as provided in chapter 34.05 RCW; provided that any order, permit, conditions or denial issued pursuant to WAC 173-400-110 which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification shall be subject to judicial review only pursuant to RCW 80.50.140.

(b) The council shall promptly mail copies of each order approving or denying a notice of construction application to the applicant and to any other party who submitted timely comments on the notice of construction application, along with a notice advising parties of their rights of appeal.

(2) Appeal of prevention of significant deterioration permits issued pursuant to WAC 173-400-730.

(a) A PSD permit, any conditions contained in a PSD permit, or the denial of a PSD permit by the council may be appealed as provided in chapter 34.05 RCW; provided that a PSD permit, any conditions contained in a PSD permit, or the denial of a PSD permit which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification shall be subject to judicial review only pursuant to RCW 80.50.140. Such an appeal, however, does not stay the effective date of the permit as a matter of federal law.

(b) A PSD permit issued under the terms of a delegation agreement between the EPA and the council can be appealed to the EPA's environmental appeals board as provided in 40 C.F.R. 124.13 and 40 C.F.R. 124.19.

(3) Appeal of operating permits issued pursuant to chapter 173-401 WAC.

(a) A decision to issue or to deny a final permit, or the terms or conditions of such a permit issued by the council pursuant to chapter 173-401 WAC, may be appealed as provided in chapter 34.05 RCW, provided that a decision to issue or to deny a final permit, or the terms or conditions of such a permit issued pursuant to chapter 173-401 WAC which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification, shall be subject to judicial review only pursuant to RCW 80.50.140.

(b) The council shall identify any appealable decision or determination as such and shall notify the recipient that the decision may be appealed by filing an appeal pursuant to chapter 34.05 RCW.

(c) The provision for appeal in this section is separate from and additional to any federal rights to petition and review under section 505(b) of the federal Clean Air Act, including petitions filed pursuant to 40 C.F.R. 70.8(c) and 70.8(d).

(d) Appealing parties. Parties that may file the appeal referenced in subsection (4)(a) of this section include any person who submitted comment in the public participation process pursuant to WAC 173-401-800.

(e) As provided in RCW 34.05.570, a person may seek a writ of mandamus in the event that the council fails to take final action on an application for a permit, permit renewal, or permit revision within the deadlines specified by WAC 173-401-700 through 173-401-725.

(4) Appeal of acid rain permits issued pursuant to chapter 173-406 WAC.

(a) Terms used in this subsection have the definitions given in WAC 173-406-101.

(b) Appeals of the acid rain portion of an operating permit issued by the council that do not challenge or involve decisions or actions of the administrator under 40 C.F.R. parts 72, 73, 75, 77 and 78 and sections 407 and 410 of the act and regulations implementing sections 407 and 410 shall be conducted according to the procedures in chapter 34.05 RCW; provided that appeals of the acid rain portion of an operating permit issued by the council which becomes effective upon final action of the governor according to RCW 80.50.100 on an application for site certification shall be subject to judicial review only pursuant to RCW 80.50.140.

(c) Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the administrator shall follow the procedures under 40 C.F.R. part 78 and section 307 of the act. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualifying repowering technology.

(d) No administrative appeal or judicial appeal of the acid rain portion of an operating permit shall be allowed more than thirty days following respectively issuance of the acid rain portion that is subject to administrative appeal or issuance of the final agency action subject to judicial appeal.

(e) The administrator may intervene as a matter of right in any state administrative appeal of an acid rain permit or denial of an acid rain permit.

(f) No administrative appeal concerning an acid rain requirement shall result in a stay of the following requirements:

(i) The allowance allocations for any year during which the appeal proceeding is pending or is being conducted;

(ii) Any standard requirement under WAC 173-406-106;

(iii) The emissions monitoring and reporting requirements applicable to the affected units at an affected source under 40 C.F.R. part 75;

(iv) Uncontested provisions of the decision on appeal; and

(v) The terms of a certificate of representation submitted by a designated representative under subpart B of 40 C.F.R. part 72.

(g) The council will serve written notice on the administrator of any state administrative or judicial appeal concerning an acid rain provision of any operating permit or denial of an acid rain portion of any operating permit within thirty days of the filing of the appeal.

(h) The council will serve written notice on the administrator of any determination or order in a state administrative or judicial proceeding that interprets, modifies, voids, or otherwise relates to any portion of an acid rain permit. Following any such determination or order, the administrator will have an opportunity to review and veto the acid rain permit or revoke the permit for cause in accordance with WAC 173-401-810 and 173-401-820.

(5) Appeals from notices of violation issued by the council will be handled via the council's appellate review procedure as provided in WAC 463-70-070 (4)(c).

WAC 463-~~3978~~-170 Conflict of ~~Interest~~interest. No member of the council shall have received, or has during the previous two years received, a significant portion of his or her income directly or indirectly from permit holders or applicants for a permit under the jurisdiction of this council.

(1) For the purposes of this section, the term "member" includes any individual who has or shares authority to approve permit applications or portions thereof, either in the first instance or on appeal.

(2) For the purpose of this section, the term "permit holders or applicants for a permit" shall not include any department or agency of a state government.

(3) For the purposes of this section, the term "significant portion of his or her income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age and is receiving such portion pursuant to retirement pension or similar arrangement.

(4) For the purposes of this section, the term "income" includes retirement benefits, consultant fees and stock dividends.

(5) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" if it is derived from mutual fund payments or from other diversified investments over which the recipient does not know the identity of the primary source of income.

WAC 463-~~3978~~-230 Regulatory ~~Actions~~actions. The council may take any of the following regulatory actions to enforce this chapter to meet the provisions of RCW 80.50.040 or 70.94.422.

(1) Enforcement ~~Actions~~actions —Notice of ~~Violation~~violation. At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431 (1) through (7), the council shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or rule or regulation alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the council may require that the alleged violator or violators appear before it for the purpose of providing ~~the council~~information to the council pertaining to the violation or the charges complained of. Every

notice of violation shall offer the alleged violator an opportunity to meet with the council prior to the commencement of enforcement action.

(2) Civil ~~Penalty~~penalty.

(a) All penalties assessed as the result of air emission violations shall be consistent with RCW 70.94.332, 70.94.430, 70.94.431(1) through (7), and 70.94.435. Any person who violates any of the provisions of chapter 70.94 RCW may incur a civil penalty in an amount as set forth in RCW 70.94.431. Each such violation shall be separate and distinct and, for a continuing violation, each day's continuance shall be a separate and distinct violation.

Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty as set forth by RCW 70.94.431 for each day of continued noncompliance.

(b) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amount established in RCW 70.94.431 may be increased annually to account for inflation as determined by the state office of economic and revenue forecast council.

(c) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 70.94.422.

(d) All penalties recovered under this section by the council shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015.

(e) In addition to other penalties provided by this chapter, persons knowingly under-reporting emission or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(3) Assurance of ~~Discontinuance~~discontinuance. The chair, or his/her authorized representative, may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter. Any such assurance shall specify a time limit during which discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the superior court.

(4) Restraining ~~Orders~~orders, ~~Injunctions~~injunctions. Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, the council, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) Emergency ~~Episodes~~episodes. The council may issue such orders as authorized by chapter 80.50 RCW, whenever an air pollution episode forecast is declared.

(6) Compliance ~~Orders~~orders. The council may issue a compliance order in conjunction with a notice of violation. The order shall require the recipient of the notice of violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated.

Appendix C. EFSEC's request to include Chapter 463-78 WAC in the SIP



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

September 15, 2016

Maia D. Bellon, Director,
Washington Department of Ecology

Subject: Request to Ecology Concerning EFSEC's Regulation of Pollution Sources in Washington State Implementation Plan

Dear Maia Bellon,

The Energy Facility Site Evaluation Council (EFSEC) requests Ecology submit portions of our agency rule Chapter 463-78 WAC to the Environmental Protection Agency (EPA) to include in the Washington State Implementation Plan (SIP). EFSEC's regulations include portions of Ecology's Chapter 173-400 WAC, which EFSEC has adopted by reference.

EPA's approval of EFSEC's rule into the SIP will allow EFSEC to implement a SIP approved Prevention of Significant Deterioration (PSD) permitting program. EPA's approval will expedite EFSEC's issuance of PSD permits than under its current partial delegation agreement. EFSEC also requests Ecology include in the SIP approval request EPA transfer regulatory authority. This would cover existing PSD permits that were issued to EFSEC regulated facilities by EPA, or EPA and EFSEC under PSD program delegation agreements, since August, 1977.

EFSEC is authorized by Chapters 80.50 and 70.94 Revised Code of Washington (RCW) to implement a statewide air quality program for certain types of energy facilities in Washington. EFSEC has adopted several revisions to its General and Operating Permit Regulations for Air Pollution Sources (Chapter 463-78 WAC) since it was approved in the 1996 Washington SIP. As these revisions were not submitted to EPA, EFSEC's rules are not consistent with the rules in the SIP.

EFSEC proposes to update rules in the SIP to match our current rules. In 2015, EFSEC revised its Chapter 463-78 WAC to:

- Align our rules with the current Ecology regulations.
- Allow Ecology to complete actions on infrastructure SIPs for the attainment of NAAQS.
- Acquire either a SIP-approved PSD program or a full PSD program delegation.

Maia D. Bellon, Director,
Washington State Department of Ecology

EFSEC met the requirements of Administrative Procedure Act, Chapter 34.05 RCW, throughout the process of updating its Chapter 463-78 WAC. EFSEC aligned its rule with Ecology's rule through adopting by reference relevant provisions in Ecology's General Regulations for Air Pollution Sources (Chapter 173-400 WAC) as it existed on December 29, 2012. EPA had already approved this version of Chapter 173-400 WAC in the Washington SIP for Ecology's jurisdiction.

EFSEC has the authority to recover the entire cost of processing permit applications and monitoring compliance services for EFSEC permitted facilities. These resources are used to fund Ecology and local air pollution control agency permitting and compliance services.

EFSEC has worked closely with Ecology's Air Quality Program and EPA Region 10 to prepare the attached SIP revision document. A copy of this SIP submittal request letter, including the attachment, is copied to Stu Clark, Air Quality Program Manager

Thank you for your assistance in this matter. If you have any questions, please contact Jim LaSpina at jlaspina@utc.wa.gov or (360) 664-1362, or Alan Newman at Alan.Newman@ecy.wa.gov or 360-407-6810.

Sincerely,



Stephen Posner
EFSEC Manager

cc: Stu Clark, Ecology, with attachments
Alan Newman, AQP - Ecology
Jim LaSpina, EFSEC
Debebe Dererie, Ecology