



# **Washington State Implementation Plan Revision**

## **Startup, Shutdown, and Malfunction Regulations from the Energy Facility Site Evaluation Council's Chapter 463-78 Washington Administrative Code**

By Anthony Bruma  
For the Air Quality Program

Washington State Department of Ecology  
Olympia, Washington

**June 2023**  
**Publication 23-02-033**

## Publication Information

This document is available on the Department of Ecology's website at the following url:  
<https://apps.ecology.wa.gov/publications/summarypages/2302033.html>

### Related Information

[Publication 19-02-030](#): Washington State Implementation Plan (SIP) Revision: Startup, Shutdown, and Malfunction Provisions in Chapters 173-400, 173-405, 173-410, and 173-415 WAC<sup>1</sup>

## Contact Information

### Air Quality Program

P.O. Box 47600  
Olympia, WA 98504-7600  
Phone: 360-407-6800

**Website:** <https://ecology.wa.gov/contact>

## ADA Accessibility

The Department of Ecology is committed to providing people with disabilities access to information and services by meeting or exceeding the requirements of the Americans with Disabilities Act (ADA), Section 504 and 508 of the Rehabilitation Act, and Washington State Policy #188.

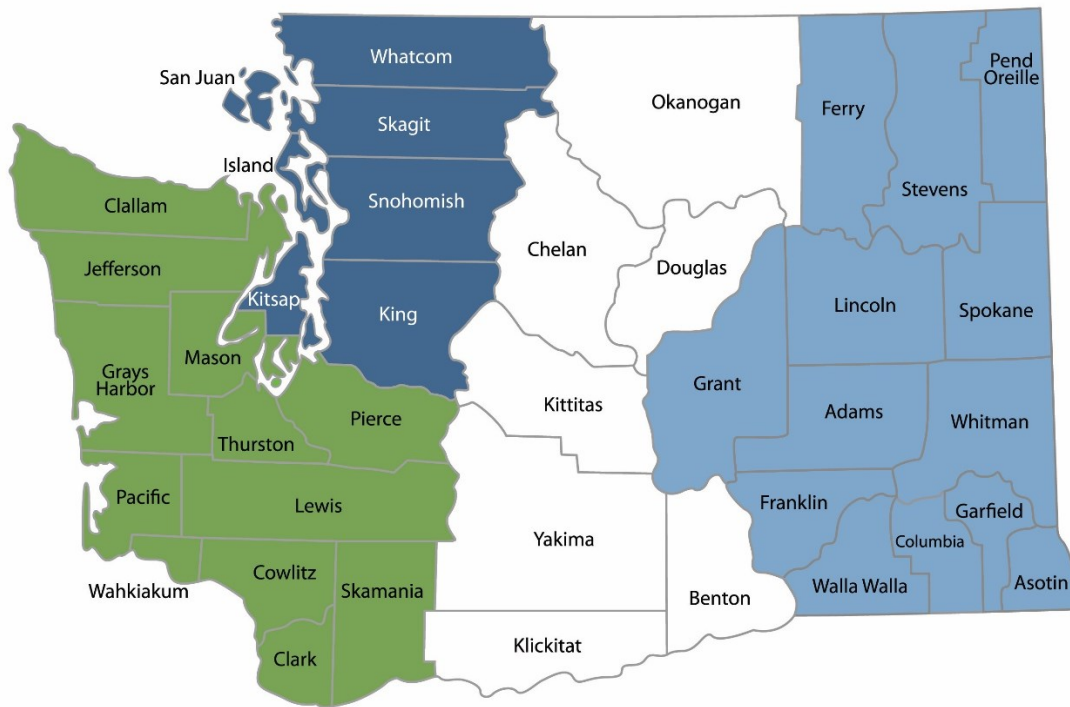
To request an ADA accommodation, contact Ecology by phone at 360-407-6800 or email at [ecyadacoordinator@ecy.wa.gov](mailto:ecyadacoordinator@ecy.wa.gov). For Washington Relay Service or TTY call 711 or 877-833-6341. Visit [Ecology's website](#) for more information.

---

<sup>1</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1902030.html>

# Department of Ecology's Regional Offices

## Map of Counties Served



<b>Southwest Region</b> 360-407-6300	<b>Northwest Region</b> 206-594-0000	<b>Central Region</b> 509-575-2490	<b>Eastern Region</b> 509-329-3400
---	---	---------------------------------------	---------------------------------------

Region	Counties served	Mailing Address	Phone
<b>Southwest</b>	Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum	PO Box 47775 Olympia, WA 98504	360-407-6300
<b>Northwest</b>	Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom	PO Box 330316 Shoreline, WA 98133	206-594-0000
<b>Central</b>	Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima	1250 W Alder St Union Gap, WA 98903	509-575-2490
<b>Eastern</b>	Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman	4601 N Monroe Spokane, WA 99205	509-329-3400
<b>Headquarters</b>	Across Washington	PO Box 46700 Olympia, WA 98504	360-407-6000

# Acknowledgements

The author would like to thank the following people for their contributions to this document:

Washington State Department of Ecology:

- Cooper Garbe
- Joanna Ekrem
- Martha Hankins
- Anya Caudill
- Jack Millard
- Eman Jabali
- Melanie Forster
- Miriam Duerr
- Marilyn Turnbow

Energy Facility Site Evaluation Council:

- Amí Hafkemeyer

Environmental Protection Agency Region 10:

- Randall Ruddick
- Jeff Hunt
- Gina Bonifacino

# Washington State Implementation Plan Revision

---

**Startup, Shutdown, and Malfunction Regulations  
from the Energy Facility Site Evaluation Council's  
Chapter 463-78 Washington Administrative Code**

Air Quality Program  
Washington State Department of Ecology  
Olympia, Washington

**June 2023**



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

# Table of Contents

<b>Table of Contents</b> .....	<b>6</b>
<b>Acronyms</b> .....	<b>7</b>
<b>Executive Summary</b> .....	<b>8</b>
<b>Introduction</b> .....	<b>9</b>
Background.....	9
Purpose and Scope of this SIP Revision.....	11
Ecology’s Request.....	11
SIP Revision Documents .....	11
Public Involvement.....	11
<b>Proposed Revisions to the Washington State Implementation Plan</b> .....	<b>12</b>
Summary of Changes to Chapter 463-78 WAC .....	12
Summary of Changes to Chapter 173-400 WAC adopted by reference in WAC 463-78-005...	12
<b>Appendices</b> .....	<b>19</b>
Appendix A. SIP Revisions Table.....	19
Table 1: SIP Revisions for EFSEC’s Jurisdiction .....	19
Appendix B. EPA Analysis of WAC 463-78-005 .....	24
WSR 20-16-052.....	24
Appendix C. Hyperlink to Ecology’s 2019 SSM SIP Revision .....	27
Appendix D. Public Involvement .....	28
Appendix D1. EFSEC’s Public Notice of Proposed Rule Making .....	29
Appendix D2. Ecology’s Public Notice on its SIP – Infrastructure, rule, and program plans webpage .....	31
Appendix D3. Legal Notice in The Daily Journal of Commerce .....	33
Appendix D4. GovDelivery Notices.....	35
Appendix D5. E-Comment page for receiving public comments online .....	39
Appendix E. SIP Adoption Order and Transmittal Letter to EPA.....	41
Adoption Order .....	42
Transmittal Letter.....	43

# Acronyms

CAA.....	United States Clean Air Act
CFR .....	Code of Federal Register
DESP .....	Dry Electrostatic Precipitator
Ecology .....	Washington State Department of Ecology
EFSEC.....	Energy Facility Site Evaluation Council
EPA .....	United States Environmental Protection Agency
FR.....	Federal Register
NAAQS.....	National Ambient Air Quality Standards
RCW.....	Revised Code of Washington
SIP.....	State Implementation Plan
SSM .....	Startup, Shutdown, and Malfunction
SWCAA .....	Southwest Clean Air Agency
WAC.....	Washington Administrative Code
WSR.....	Washington State Register

# Executive Summary

The Washington State Department of Ecology (Ecology) requests that the United States Environmental Protection Agency (EPA) approve this revision to the Washington State Implementation Plan (SIP) proposed by Energy Facility Site Evaluation Council (EFSEC). This proposed SIP revision relates to Startup, Shutdown, and Malfunction (SSM) provisions that EFSEC adopted by reference in its General and Operating Permit Regulations for Air Pollution Sources - [Chapter 463-78 of the Washington Administrative Code](#) (WAC).<sup>2</sup> The primary purpose of this SIP revision is to answer the [EPA's 2015 SIP call](#)<sup>3</sup> by updating the SIP for [EFSEC's jurisdiction](#)<sup>4</sup> to include revised SSM regulations that EFSEC adopted by reference from [Chapter 173-400 WAC](#).<sup>5</sup>

---

<sup>2</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=463-78>

<sup>3</sup> <https://thefederalregister.org/80-FR/33840/2015-12905.pdf>

<sup>4</sup> <https://www.efsec.wa.gov/energy-facilities>

<sup>5</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-400>



# Introduction

## Background

The Clean Air Act (CAA) authorizes the EPA to set National Ambient Air Quality Standards (NAAQS) for six criteria air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. Additionally, the CAA prevents adverse effects from these air pollutants by requiring each state to develop and adopt rules and programs to meet the NAAQS. These rules and programs must be submitted to the EPA for federal review and once approved, they form State Implementation Plans (SIPs).

A SIP is a comprehensive set of documents that each state must update when federal requirements change or when the state or a local agency decides to change its air pollution control strategies. Changes to the approved SIP are called SIP revisions and when the EPA approves state or local clean air agency regulations for inclusion into the SIP, those regulations become federally enforceable.

The Washington SIP includes air quality rules, plans, and programs adopted by Ecology, EFSEC, and seven local clean air agencies. When the state or a local clean air agency amends regulations that were previously approved by the EPA as part of the SIP, those amendments must then be re-submitted to the EPA for review to ensure there is no backsliding. In the state of Washington, Ecology coordinates all SIP revisions that are submitted to the EPA for approval and the Director of Ecology oversees all SIP matters on behalf of the Governor.

On May 22, 2015, the EPA issued its [2015 SSM SIP Action](https://www.federalregister.gov/documents/2015/05/22/2015-12905) (80 FR 33840).<sup>6</sup> The action was in response to a [rulemaking petition](https://www3.epa.gov/airquality/urbanair/sipstatus/docs/ssm_sierra_petition_021213.pdf)<sup>7</sup> regarding how SIPs address excess emissions from air pollution sources during short-term periods of operation like Startup, Shutdown, and Malfunction (SSM). The primary purpose of the 2015 SSM SIP Action is to ensure that states have regulations in place requiring sources of pollution to follow federal emission standards regardless of facility operational status – including SSM.

As part of the 2015 SSM SIP Action, the EPA updated its national SSM policy applicable to SIPs. Substantial inadequacies in SSM emission regulations were also identified in the previously approved rules of 45 state and local clean air agencies. These findings resulted in a SIP call to bring those identified rules into compliance with the CAA.

The initial deadline to submit SIP revisions of the SSM-related deficiencies was November 22, 2016. The EPA had until May 22, 2017, to determine whether states and local clean air agencies submitted SIP revisions that conform to federal requirements. If a state or local clean air agency did not submit SIP revisions, the EPA was required to issue findings of failure to submit.

---

<sup>6</sup> <https://www.federalregister.gov/documents/2015/05/22/2015-12905>.pdf

<sup>7</sup> [https://www3.epa.gov/airquality/urbanair/sipstatus/docs/ssm\\_sierra\\_petition\\_021213.pdf](https://www3.epa.gov/airquality/urbanair/sipstatus/docs/ssm_sierra_petition_021213.pdf)

However, findings of failure to submit were not determined for those states and agencies that had not yet responded to the 2015 SIP call. As a result, a group of non-governmental environmental organizations filed a [deadline suit](#)<sup>8</sup> on September 8, 2021. Then, on January 11, 2022, the EPA shared a [final action](#) (87 FR 1680)<sup>9</sup> that issued findings of failure to submit to the 12 air agencies that, as of that date, had not yet submitted SIP revisions responding to the 2015 SSM SIP call. In the state of Washington, findings of failure to submit were issued for both EFSEC and Southwest Clean Air Agency (SWCAA).

With respect to the SIP, EFSEC primarily implements its program through the adoption by reference of Ecology's regulations contained in Chapter 173-400 WAC. On November 12, 2019, before the EPA issued findings of failure to submit SSM SIP revisions, Ecology submitted revised SSM regulations to bring its direct jurisdiction into compliance with the EPA's 2015 SSM SIP call. This is important to note because as of June, 2023, Ecology's [2019 SSM SIP proposal](#)<sup>10</sup> is pending EPA action and EFSEC adopted Ecology's SSM rules by reference on July 28, 2020. Although EFSEC adopted Ecology's rules by reference, EFSEC's updated SSM rules have not yet been submitted to the EPA as a SIP revision – resulting in the previously mentioned finding of failure to submit.

Therefore, the purpose of this SIP revision is to address the EPA's finding of failure to submit SSM SIP revisions that was issued to EFSEC. Ecology and EFSEC aim to answer the EPA's 2015 SSM SIP call by updating the SIP for [EFSEC's jurisdiction](#)<sup>11</sup> to be consistent with the changes that were made to Chapter 173-400 WAC and submitted by Ecology to the EPA in 2019. These amendments are described further in this document for the purpose of including them into the SIP and updating those portions of the EFSEC rule that the EPA found to be deficient in the 2015 SSM SIP call.

---

<sup>8</sup> <https://www.epa.gov/system/files/documents/2021-09/sierraclub-4-21cv06956-complaint-09082021.pdf>

<sup>9</sup> <https://www.govinfo.gov/content/pkg/FR-2022-01-12/pdf/2022-00138.pdf>

<sup>10</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1902030.html>

<sup>11</sup> <https://www.efsec.wa.gov/energy-facilities>

## Purpose and Scope of this SIP Revision

On August 16, 2018, Ecology amended portions of Chapter 173-400 WAC related to excess emissions during short-term modes of operation like SSM. Later, in November 2019, Ecology submitted those rule amendments as a SIP revision that is pending EPA action as of June 2023.

EFSEC amended Chapter 463-78-005 (1) and (2) WAC through an expedited rule making on July 28, 2020 (see Appendix B. EPA Analysis of WAC 463-78-005 and Appendix D1. EFSEC's Public Notice of Proposed Rule Making). EFSEC adopts regulations from Chapter 173-400 WAC by reference. Thus, this SIP revision is intended to address the 2015 SIP call by including EFSEC's updated SSM regulations, which are now consistent with Ecology's 2019 SSM SIP submittal, into the SIP. This SIP revision is applicable to sources under EFSEC's jurisdiction and does not apply where EFSEC does not have jurisdiction, including areas with tribal jurisdiction.

## Ecology's Request

Ecology and EFSEC request the EPA to approve and include in the SIP the amendments that were made to Chapter 463-78 WAC as described in this document and outlined in Appendix A. SIP Revisions Table as well as Appendix B. EPA Analysis of WAC 463-78-005.

## SIP Revision Documents

- Appendix A. SIP Revisions Table contains a table outlining which of EFSEC's SSM regulations we are requesting to be updated in the SIP.
- Appendix B. EPA Analysis of WAC 463-78-005 contains an EPA analysis of strikethrough rule language changes that were made to WAC 463-78-005 on July 28, 2020.
- Appendix C. Hyperlink to Ecology's 2019 SSM SIP Revision contains a hyperlink to Ecology's 2019 SSM SIP submittal.
- Appendix D. Public Involvement contains copies of notices advertising the public comment period and opportunity to request a hearing for this SIP revision.
- Appendix E. SIP Adoption Order and Transmittal Letter to EPA contains signed copies of the SIP Adoption Order and Transmittal Letter to EPA.

## Public Involvement

Ecology invited public comment on this proposed SIP revision from **Monday, March 13, 2023**, through **Friday, April 21, 2023**. No comments were submitted to Ecology.

If a hearing for this proposed SIP revision was requested by **Wednesday, April 12, 2023**, Ecology offered to hold a public hearing on **Tuesday, April 18, 2023**. No request was made to hold a meeting and the public hearing was cancelled as allowed by 40 C.F.R. Section 51.102 (see Appendix D2b. Ecology's Public Notice After the Deadline to Request a Public Hearing (April 12, 2023)).

No substantive changes were made between the public review draft and this final document.

# Proposed Revisions to the Washington State Implementation Plan

## Summary of Changes to Chapter 463-78 WAC

- **WAC 463-78-005 Adoption by Reference**
  - EFSEC revised the previously SIP-approved subsection (1) into subsections (1) and (2) and updated the adoption by reference date of Chapter 173-400 WAC from November 25, 2018, to November 11, 2019. EFSEC is requesting the EPA to approve these revisions.
  - Subsection (2)(a)(iv) was an inadvertent typographical error that Ecology is not submitting as part of the SIP because EFSEC's adoption by reference date is clearly specified in subsection (1).

For further review of the changes, please refer to Appendix A. SIP Revisions Table and Appendix B. EPA Analysis of WAC 463-78-005.

## Summary of Changes to Chapter 173-400 WAC adopted by reference in WAC 463-78-005

A majority of the following analysis refers to and was included in [Ecology's 2019 SSM SIP revision](#)<sup>12</sup> which Ecology submitted to EPA for approval in November 2019. Ecology's 2019 SSM SIP revision is still pending EPA action, and it can be accessed using the publication hyperlink at the bottom of this page or in Appendix C. Hyperlink to Ecology's 2019 SSM SIP Revision.

- **WAC 173-400-030 Definitions**
  - The following are new definitions in the rule to clarify their meanings in the rule and guide the implementation.
    - (6) "Alternative emission limit or limitation." This definition is to clarify the implementation of the provisions for transient (short-term) modes of operation such as startup and shutdown provisions. This includes WAC 173-400-040(2), 081, and 082, 107, 108 and 109.
    - (45) "Hog fuel": This definition is to define what has been used as a 'term of art' and clarify the implementation of WAC 173-400-040 (2) and WAC 173-400-070 (2).
    - (83) "Shutdown": This definition is to clarify the meaning of the term in the rule.

---

<sup>12</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1902030.html>

- (89) “Startup”: We added this definition to clarify the meaning of the term in the rule.
  - (97) “Transient mode of operation”: We added this definition to clarify the meaning of the term as it is used in many parts of this rule that establish emission standards and limitations that apply during short-term operations of sources such as startup, shutdown, soot blowing, grate cleaning, and refractory curing.
  - (100) “Useful thermal energy”: We added this definition to clarify the implementation of the rule in WAC 173-400-040(2)(e); and it is borrowed from the Boiler NESHAPs rules, specifically 40 CFR 63.7575 and 63.11237.
  - (103) “Wigwam” or “silo burner”: We added this definition to clarify the meaning in the implementation of WAC 173-400-070(1).
  - (104) “Wood-fired boiler”: We added the definition to clarify the implementation of the rule in WAC 173-400-040 and is adapted from the federal rule 40 CFR 63.7575.
- The following are the main amendments to the definitions in this section:
  - (32) “Excess emissions”: We revised the definition to clarify that it also includes emissions above limits established in permits or orders, including alternative emission limits.
  - (38) “Federally enforceable”. We updated this definition to include emission limitations during startup and shutdown.
- The sequence of the definitions changed due to inclusion of new definitions included in the rule. There are also changes in some of the definitions to improve clarity but not to change the meanings. We are proposing to include all the definitions in WAC 173-400-030 in the SIP, **except** the definition for:
  - (96) “Toxic air pollutant (TAP,)”, because these are not criteria pollutants in the SIP.
- **WAC 173-400-030(30) & (36) Definitions**
  - Remove from the SIP because these definitions are replaced by the current subsections (32) and (38), consistent with the 2019 SSM SIP submission for Ecology’s direct jurisdiction.
- **WAC 173-400-040 General Standards for Maximum Emissions**
  - The EPA acted on all parts of 173-400-040 that EFSEC previously sent for approval except for subsection -040(2) (85 FR 4233, 1/20/2020). For reference, the bullets below give background from Ecology’s 2019 SSM SIP submission regarding changes to -040(2), which was not acted on in January 2020.

- WAC 173-400-040(2) Visible emissions. We have some clarification changes in this subsection. The main changes in this subsection are the three alternative opacity standards for the following modes of operations:
  - Soot blowing and grate cleaning,
  - Startup and shutdown of hog fuel boilers with dry particulate control, and
  - Curing of refractories for boilers and lime kilns.
- WAC 173-400-107 considered the excess emissions during two of the above three modes of operations as for boilers with only dry particulate control. We were excusing these excess emissions if the owner or operator reported them in a timely manner. This is a conditional exemption, which is not consistent with the EPA SSM policy and the CAA §302(k). We determined that the preferred way to meet EPA's SSM requirement during these modes of operation is through establishing reasonable alternative emission limitations. Thus, we established an alternative opacity standard of 40 percent during these events, with variances of additional requirements for each type of event.
- We also made changes that recognize alternative opacity standards as components of the continuous emission standards, and clarified that sources to measure opacity according to Ecology Method 9A<sup>13</sup>. This section also specifies the effective date of these alternative emissions to be the effective date of EPA's removal of the WAC 173-400-107 from the SIP.
- WAC 173-400-040(2)(a) Soot blowing or grate cleaning alternate opacity standard. The current rule in the SIP exempts soot blowing and grate cleaning from the otherwise applicable twenty percent opacity standard for a maximum of 15 minutes in eight consecutive hours. Sources did not have emission limits during these periods. Such exemption is not consistent with the EPA's SSM policy and the CAA §302(k), which require continuous emission limitations. The court decision in *Sierra Club v. Johnson* case supports this interpretation of the CAA §302(k). Thus, to provide a continuous emission limitation for these sources, we established 40 percent opacity as alternative emission standards for the same duration, a maximum of 15 minutes in eight consecutive hours, during soot blowing and grate cleaning. It also requires sources to notify the permitting authority of their periodic soot-blowing and grate cleaning schedule as a precondition to use this alternative opacity standard. Sources must also maintain records sufficient to demonstrate compliance.

---

<sup>13</sup> Ecology Method 9A is a cumulative opacity standard where a violation occurs when there are more than 3 minutes of readings by a certified visible emissions (VE) reader. Readings are taken at 15 second intervals. To show a violation there must be 13 readings above the standard in an hour. To show compliance, a VE reader would need to take opacity measurements for an hour.

- WAC 173-400-040(2)(b) This revision recognizes uncombined water as a possible cause for higher opacity above an alternative standard, if the operator or owner of the source demonstrated that with valid data.
- WAC 173-400-040(2)(d) This revision recognizes alternative opacity limits set according to WAC 173-400-081(4) and 173-400-082 as exceptions to the otherwise applicable twenty percent opacity standard. We are proposing to include this sub-subsection in the SIP, except the phrase “RCW 70.94.331(2)(c)” that was not in the SIP.
- WAC 173-400-040(2)(e) sets a new alternative opacity standard for startup or shutdown. It applies to hog-fuel or wood fired boilers in operation before January 24, 2018 (existing units), and use only dry particulate controls such as multiclone, fabric filter or dry electrostatic precipitator (DESP). New boilers that come into operation after January 24, 2018 are required to meet the 20 percent opacity standard during startup and shutdown since they can be designed to meet the opacity requirement. This new alternative opacity standard accommodates the boilers that have demonstrated a technological limitation to meet the 20 percent opacity standard during startup and shutdown.
- The main reason for setting this alternative emission standard is that these dry particulate controls have a recognized difficulty to effectively control boiler emissions during startups and shutdowns. Safe and effective operation of these controls require stable higher minimum temperature to avoid the chance of having condensed water in the flue gas. This is difficult to meet during the early parts of the startup process and late parts of the shutdown process. As explained in Appendix B of the 2019 submission, Manufacturers of DESP and fabric filters do not recommend operators to engage these dry particulate controls when the flue gas temperature is below a specific level (usually acid dew point). This makes the excess emissions during startup and shutdown of this specific sub-group of boilers unavoidable.
- Currently, we excuse these excess visible emissions (above 20 percent opacity) during startup and shutdown of hog fuel boilers with dry particulates controls as unavoidable excess emissions under WAC 173-400-107. For us to excuse the excess emissions during startup and shutdown from penalties, we require the sources to report the excess emission in a timely manner and demonstrate the excess emission was unavoidable.
- In recognition of this challenge to meet the 20 percent opacity continuously, we set this alternative opacity standard at 40 percent. The alternative standard provides two compliance options for this group of boilers. These units are required to either meet 40 percent opacity standard, or follow a work practice standard. The work practice standard requires the use of clean fuels (as identified in Table 3 in 40 CFR Part 63, Subpart DDDDD) during startup and shutdown. This sub-subsection also sets the conditions for using this alternative standard, what constitutes clean fuels, and the record keeping requirements to demonstrate compliance.

- WAC 173-400-040(2)(f). Furnace refractory alternative emission standard. This new alternative emission standard sets requirements that boilers and lime kilns shall meet when they install or repair their refractory materials. During refractory curing, temperatures in the firebox are limited to allow for drying and curing of the refractory materials and mortars. The controlled heating process reduces the chance for the refractory to spall and fail prematurely. During this period, the flue gas temperature will be at or below the dew point, leading to uncombined water in the flue gas. Once the boiler and control device temperatures are hot enough, the operator can engage the PM controls. The requirements include
  - One working day prior notification to the permitting authority
  - The use of clean fuel
  - Use of manufacturer’s instructions during refractory curing
  - Limiting the opacity to 40 percent (using Ecology Method 9A) for the maximum duration of 36 hours.
- **WAC 173-400-040(2) General Standards for Maximum Emissions**
  - Remove from the SIP because it was replaced by the 2018 update to 040(2)
- **WAC 173-400-070 Emission Standards for Certain Source Categories**
  - Ecology’s 2019 SSM SIP submission does include revisions to 070, however, because most subsections apply to source categories not regulated by EFSEC, the EPA previously only approved subsection (5) into the SIP for EFSEC’s jurisdiction (82 FR 24533, 5/30/17). Since Ecology requested removal of subsection (5), EFSEC is now requesting to remove all of WAC 173-400-070 from the SIP. The bullet below describes Ecology’s request to remove 070(5) from the SIP in the 2019 SSM SIP submission.
  - WAC 173-400-070(5) Catalytic cracking units. We deleted the provision that sets the particulate matter and opacity requirements for the catalytic cracking units because the federal rule (40 CFR 60.102a) we adopt by reference in WAC 173-400-115 has more stringent requirements for catalytic cracking units than the requirements in the deleted rule. This federal rule (40 CFR 60.102a) sets a particulate matter emission standard of 0.040 grains per dry standard cubic feet (gr/dscf) standard, which is significantly more stringent than the deleted rule that sets it at 0.20 grains/dscf. Similarly, 40 CFR 60.102a (d) provides a formula for setting site-specific opacity limits based on the PM emission rate measured during a source test. We expect this to be lower because of the more stringent PM standard. We deleted this subsection to simplify compliance by reducing duplication of the federal requirements in our rule.
- **WAC 173-400-081 Emission Limits During Startup and Shutdown**

We propose to include all the changes in this section in the SIP. This section applies to new source review. The changes in the rule, detailed below, are mainly to clarify the



requirements that apply when establishing alternative emission limitations for startup and shutdown of new sources.

- WAC 173-400-081(1). The change clarifies the applicability of the section when establishing emission limitations by rule, permit or order for new sources.
  - WAC 173-400-081(2). This change clarifies the requirement to set alternative emission limitations for startup or shutdown, as part of control technology determination, if the source is not capable of achieving the otherwise applicable emission standard during these period.
  - WAC 173-400-081(4). The change includes additional requirements for sources to meet when the established alternative emission standard is above the emission limits in the SIP. We do this through the specific requirements of WAC 173-400-082 for the source to follow under this condition.
- **WAC 173-400-082 Alternative Emission Limit that Exceeds an Emission Standard in the SIP**

We designed this new section to set the scope and process requirements for establishing alternative emission limits for transient modes of operations that exceed the emission standards in the SIP. This includes emission standards for opacity, sulfur dioxide, and particulate matter. We designed the requirements in this rule to meet EPA's recommended criteria for developing appropriate alternative emission limitations during startup and shutdown. The requirements also include Ecology's steps in processing such a request, as outlined in state law. This section provides flexibility for sources to set alternative emission limitation that are approvable by EPA. We propose to include this section in the SIP, without exception.

- **WAC 173-400-107 Excess Emissions**

We are proposing to remove this section from the SIP. We changed the end of the effective date of the current version from the effective date of EPA's incorporation of WAC 173-400-108 (excess emission reporting) and WAC 173-400-109 (unavoidable excess emission) in the SIP to the effective date of EPA's removal of the current version from the SIP. Since 2011, Ecology had WAC 173-108 and 109 in the rule to replace WAC 173-400-107 with the effective date dependent on EPA's approval of the proposed replacement. We had done this to meet the EPA's 1999 SSM policy. However, Ecology did not submit this change to EPA for inclusion in the SIP. Consistent with our pre-SSM SIP Call intention, Ecology proposes to remove this section from the SIP.

- **WAC 173-300-136 Use of Emission Reduction Credits (ERC)**

- Revise in the SIP. The EPA's May 30, 2017 (82 FR 24531) approval for EFSEC contained a minor typographical error. We are requesting that the EPA update WAC 173-400-136 with the correct state effective date consistent with the November 7, 2014 (79 FR 66291) approval for Ecology's direct jurisdiction.

- **WAC 173-400-171 Public Notice and Opportunity for Public Comment**

- The only change in this section that is related to the startup, shutdown and malfunction is in the requirement for public comment period in (3)(o) applicable to setting alternative emission limitations under WAC 173-400-081(4) or 173-400-082. We propose EPA to include this new requirement in the SIP.

For further review of the changes, please refer to Appendix A. SIP Revisions Table and Appendix C. [Hyperlink to Ecology's 2019 SSM SIP Revision.](#)

## Appendices

### Appendix A. SIP Revisions Table

**Table 1: SIP Revisions for EFSEC’s Jurisdiction**

Section	Section Title	Effective Date	Prior EPA Approval Date	SIP Action	Explanation
<b>Washington Administrative Code, Chapter 463-78—General and Operating Permit Regulations for Air Pollution Sources</b>					
463-78-005	Adoption by Reference	Effective Date of prior approval: 8/26/19  Updated: 8/28/20	1/24/20, 85 FR 4233	Request update to 2020 state effective version subsections (1) and (2).	Update subsections (1) and (2), except (2)(a)(iv). EPA previously approved subsection (1). Effective in the most recent rule change, EFSEC divided this into subsections (1) and (2) with no substantive changes to the content (See WSR 20-16-052 included in Appendix B. EPA Analysis of WAC 463-78-005). Subsection (2)(a)(iv) is an inadvertent typographical error that we are not submitting for approval. The effective date of adoption is clearly defined in subsection (1). See below for the updated Chapter 173-400 WAC provisions adopted by reference and submitted to the EPA for approval.

Section	Section Title	Effective Date	Prior EPA Approval Date	SIP Action	Explanation
<b>Washington Administrative Code, Chapter 173-400 Regulations Incorporated by Reference in WAC 463-78-005</b>					
173-400-030	Definitions	9/16/18	1/24/20, 85 FR 4233	In this action, we are requesting approval of subsections 173-400-030(6); 173-400-030(32); 173-400-030(38); 173-400-030(45); 173-400-030(83); 173-400-030(89); 173-400-030(97) 173-400-030(100); 173-400-030(103); 173-400-030(104), adopted by reference by EFSEC, consistent with the 2019 submission for Ecology's direct jurisdiction.	In Ecology's 2019 SSM SIP submittal, for our direct jurisdiction, we requested approval of all WAC 173-400-030 definitions except subsection 173-400-030(96) "toxic air pollutant (TAP)" which is outside the scope of the SIP.  (All other submitted parts of 030 were approved by EPA in the January 2020 85 FR 4233)
173-400-030(30) & (36).	Definitions	12/29/12	5/30/17, 82 FR 24533	Remove from the SIP.	These definitions are replaced by the current subsections (32) and (38), consistent with the 2019 submission for Ecology's direct jurisdiction.
173-400-040	General Standards for Maximum Emissions	9/16/18	1/24/20, 85 FR 4233	Revise 040(2) in the SIP consistent with Ecology's 2019 SIP submittal.	Except: WACs 173-400-040 (2)(c), (3), (5) and the expression "RCW 70.94.331(2)(c)" in (2)(d). 040(2)(c), (3), and (5) are not part of the current SIP.  (All other submitted parts of 040 were approved by EPA in the January 2020 85 FR 4233)

Section	Section Title	Effective Date	Prior EPA Approval Date	SIP Action	Explanation
173-400-040(2)	General Standards for Maximum Emissions	4/1/11	5/30/17, 82 FR 24533	Remove from the SIP.	WAC 173-400-040(2) was replaced by the 2018 update to 040(2)
173-400-070	Emission Standards for Certain Source Categories	Effective Date of prior approval: 12/29/12  Updated: 9/16/18	5/30/17, 82 FR 24533	Remove from the SIP.	The May 30, 2017, EPA approval of 070 included only subsection (5). Ecology's 2019 SIP revision removed subsection (5) and requested its removal from the SIP.
173-400-081	Emission limits during startup and shutdown	Effective Date of prior approval: 4/1/11  Updated: 9/16/18	5/30/17, 82 FR 24533	Revise subsections: 173-400-081(1), 173-400-081(2), and 173-400-081(4) in the SIP consistent with Ecology's 2019 SIP submittal.	

Section	Section Title	Effective Date	Prior EPA Approval Date	SIP Action	Explanation
173-400-082	Alternative emission limit that exceeds an emission standard in the SIP	9/16/18		Include in the SIP as described in Ecology's 2019 SIP submittal.	To help clarify the process for requesting an alternative emission limit when emissions are greater than those set by the SIP.
173-400-107	Excess Emissions	Effective Date of prior approval: 9/20/93  Updated: 9/16/18	6/2/95, 60 FR 28726	Remove from the SIP consistent with Ecology's 2019 SIP submittal.	This provision does not meet CAA requirements.
173-400-136	Use of Emission Reduction Credits (ERC)	Effective Date of prior approval: 4/1/11  Updated: 12/29/2012	5/30/17, 82 FR 24533	Revise in the SIP.	The EPA's May 30, 2017 (82 FR 24533) approval for EFSEC contained a minor typographical error. We are requesting that the EPA update WAC 173-400-136 with the correct state effective date consistent with the November 7, 2014 (79 FR 66291) approval for Ecology's direct jurisdiction.

Section	Section Title	Effective Date	Prior EPA Approval Date	SIP Action	Explanation
173-400-171	Public Notice and Opportunity for Public Comment	9/16/18	1/24/20, 85 FR 4233	Request inclusion of 171(3)(o) in the SIP consistent with Ecology's 2019 SIP submittal.	<p>Approve all of 173-400-171 except: the part of 173-400-171(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"; 173-400-171(12).</p> <p>(all other submitted parts of 171 were approved by EPA in the January 2020 85 FR 4233)</p>

## Appendix B. EPA Analysis of WAC 463-78-005

### WSR 20-16-052

**WSR 20-16-052**  
**PERMANENT RULES**  
**ENERGY FACILITY SITE**  
**EVALUATION COUNCIL**

[Filed July 28, 2020, 10:05 a.m., effective August 28, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The energy facility site evaluation council's purpose for this rule making is to: (1) Assure [ensure] consistency with department of ecology rules (RCW [70.94.422](#)); (2) to assure [ensure] consistency and compliance with federal rules; and (3) to provide clarifying language in the existing rules.

Citation of Rules Affected by this Order: Amending WAC 463-78-005.

Statutory Authority for Adoption: RCW [80.50.040](#)(1); and chapter [34.05](#) RCW.

Other Authority: RCW [70.94.422](#).

Adopted under notice filed as WSR 20-11-082 on May 20, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 28, 2020.

Sonia Bumpus  
Manager

AMENDATORY SECTION(Amending WSR 19-16-025, filed 7/26/19, effective 8/26/19)

**WAC 463-78-005 Adoption by reference.**

- Analysis – no substantive changes. EFSEC revised the previously SIP-approved subsection (1) into subsections (1) and (2) to better denote the adoption by reference date.



(1) The energy facility site evaluation council adopts by reference the ~~((following))~~ provisions ~~((of chapter 173-400 WAC,))~~ in the chapters listed below in this section and the federal rules in WAC 463-78-115 as it existed on November 11, 2019.

(2) The energy facility site evaluation council adopts by reference the following provisions of chapter 173-400 WAC in effect on the date in subsection (1) of this section with the following exceptions:

(a) These provisions are not adopted by reference:

(i) WAC 173-400-111 (5)(a) (last six words), (6), (9)(c);

(ii) WAC 173-400-730(4)(c, and);

(iii) WAC 173-400-750(2) second sentence ((are not adopted by reference));

and

(iv) The adoption date shall be November 11, 2019.

- Analysis – subsection (iv) was an inadvertent typographical error that Ecology is not submitting as part of the SIP. EFSEC’s adoption by reference date is clearly specified in subsection (1).

(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 173-400-025:	Adoption of federal rules.
WAC 173-400-030:	Definitions.
WAC 173-400-036:	Relocation of portable sources.
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:	Emission limits during 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) for sources and portable sources.
WAC 173-400-111:	Processing notice of construction applications for sources, stationary sources and portable sources.
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 173-400-116:	Increment protection.
WAC 173-400-117:	Special protection requirements for federal Class I areas.
WAC 173-400-120:	Bubble rules.
WAC 173-400-131:	Issuance of emission reduction credits.

WAC 173-400-136:	Use of emission reduction credits (ERC).
WAC 173-400-161:	Compliance schedules.
WAC 173-400-171:	Public notice and opportunity for public comment.
WAC 173-400-175:	Public information.
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.
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).
WAC 173-400-730:	Prevention of significant deterioration application processing procedures.
WAC 173-400-740:	PSD permitting public involvement requirements.
WAC 173-400-750:	Revisions to PSD permits.
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.

## Appendix C. Hyperlink to Ecology's 2019 SSM SIP Revision

Publication 19-02-030: Washington State Implementation Plan (SIP) Revision: Startup, Shutdown, and Malfunction Provisions in Chapters 173-400, 173-405, 173-410, and 173-415 WAC<sup>14</sup>

---

<sup>14</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/1902030.html>

## Appendix D. Public Involvement

This appendix demonstrates Ecology's efforts to meet and exceed both federal and state requirements for public involvement during the development of this SIP revision document by presenting the following records.

# Appendix D1. EFSEC's Public Notice of Proposed Rule Making



STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL  
PO Box 43172 • Olympia, Washington 98504-3172

## Notice of Proposed Rule Making

June 3, 2020

In accordance with the Revised Code Of Washington (RCW) 34.05.353, the Washington State Energy Facility Site Evaluation Council (EFSEC) has filed a notice of Expedited Rule Making (form CR-105) with the state's Code Reviser's Office for proposed rulemaking to Chapter 463-78-005 of the Washington Administrative Code (WAC) – General and Operating Permit Regulations for Air Pollution Sources.

The purpose of the proposed rule revisions is to adopt by reference the latest version of the following Department of Ecology WAC regulations:

- Chapter 173-400 – General Regulations for Air Pollution Sources
- Chapter 173-401 – Operating Permit Regulation
- Chapter 173-406 – Acid Rain Regulation
- Chapter 173-441 – Reporting of Emissions of Greenhouse Gasses
- Chapter 173-460 – Controls for New Sources of Toxic Air Pollutants

EFSEC is proposing to adopt by reference rules that have already been through public comment via the department of Ecology's rule making process. Per RCW 34.05.353(1)(b), this update to EFSEC rules qualifies for the expedited process. The effect of this rule update will allow EFSEC to use the most recent version of Ecology's rules.

### **How can you review the proposed rule update?**

Copies of the proposed rule update are available at:

- <https://www.efsec.wa.gov>
- EFSEC  
621 Woodland Square Loop  
PO Box 43172  
Lacey, WA 98503-3172

### **Public Comment**

The comment period for the proposed rule update is from Wednesday, June 3, 2020 through close of business on Monday, July 20, 2020. Comments may be submitted to the EFSEC website at <https://comments.efsec.wa.gov> or in writing to the EFSEC office (see address above).

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-**

**MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING TO Amí Kidder PO Box 43172, Olympia, WA 98503-3172 AND RECEIVED BY July 20, 2020.**

For more information about the rule update, contact Amí Kidder at (360) 664-1305 or [ami.kidder@utc.wa.gov](mailto:ami.kidder@utc.wa.gov).

To request ADA accommodation or materials in a format for the visually impaired, contact the EFSEC office at (360) 664-1345.

# Appendix D2. Ecology’s Public Notice on its SIP – Infrastructure, rule, and program plans webpage

## Appendix D2a. Ecology’s Public Notice at the Start of the Public Comment Period

### Infrastructure, rule, & program plans

---

We submit plans as well as state and local rules to EPA that show Washington has tools in place to meet national air quality standards. Once approved by EPA, these plans for infrastructure, rules, and programs become part of Washington's State Implementation Plan (SIP) for air quality. Plans and rules in Washington's State Implementation Plan are enforceable by EPA and the public.

#### I want to...

- › Learn about the regional haze state implementation plan
- › Find out about Washington's air quality targets
- › Sign up for email updates about current projects [↗](#)

#### Public comment

We propose revisions to Washington's State Implementation Plan for air quality. These revisions show Washington's ability to attain, maintain, enforce, and implement federal air quality standards through infrastructure requirements and updated rules.

<a href="#">Open public comment</a>	
<a href="#">Closed public comment</a>	
<b>State Implementation Plan documents</b>	<b>Comment or request a public hearing</b>
We propose to send EPA the revised air quality State Implementation Plan (SIP) to include the Energy Facility Site Evaluation Council's updated rule for startup, shutdown, and malfunction. <a href="#">Washington State Implementation Plan Revision: Including EFSEC Startup, Shutdown, and Malfunction Provisions in Chapter 463-78 WAC, General and Operating Permit Regulations for Air Pollution Sources</a> <a href="#">↗</a> <a href="#">Appendices</a> <a href="#">↗</a>	<b>Public comment period:</b> March 13, 2023 – April 21, 2023 <a href="#">Comment or request a public hearing online</a> <a href="#">↗</a>  Mail comments to: Anthony Bruma, Air Quality Program Washington Department of Ecology P.O. Box 47600; Olympia, WA 98504-7600  <b>Tentative public hearing:</b> (if requested by <b>April 12, 2023</b> ) April 18, 2023, 6 p.m. online  For more information, contact <a href="#">Anthony Bruma</a> at 564-669-1484.

## Appendix D2b. Ecology's Public Notice After the Deadline to Request a Public Hearing (April 12, 2023)

### Infrastructure, rule, & program plans

We submit plans, as well as state and local rules, to EPA that show Washington has tools in place to meet national air quality standards. Once approved by EPA, these plans for infrastructure, rules, and programs become part of Washington's State Implementation Plan (SIP) for air quality. Plans and rules in Washington's State Implementation Plan are enforceable by EPA and the public.

#### I want to...

- › Learn about the regional haze state implementation plan
- › Find out about Washington's air quality targets
- › Sign up for email updates about current projects [🔗](#)

### Public comment

We propose revisions to Washington's State Implementation Plan for air quality. These revisions show Washington's ability to attain, maintain, enforce, and implement federal air quality standards through infrastructure requirements and updated rules.

[Open public comment](#)

[Closed public comment](#)

State Implementation Plan documents	Comment or request a public hearing
<p>We propose to send EPA the revised air quality State Implementation Plan (SIP) to include the Energy Facility Site Evaluation Council's (EFSEC) updated rule for startup, shutdown, and malfunction.</p> <p><a href="#">Washington State Implementation Plan Revision: Including EFSEC Startup, Shutdown, and Malfunction Provisions in Chapter 463-78 WAC, General and Operating Permit Regulations for Air Pollution Sources</a> <a href="#">🔗</a> <a href="#">Appendices</a> <a href="#">🔗</a></p>	<p><b>Public comment period:</b> March 13, 2023 – April 21, 2023 <a href="#">Comment online</a> <a href="#">🔗</a></p> <p>Mail comments to: Anthony Bruma, Air Quality Program Washington Department of Ecology P.O. Box 47600; Olympia, WA 98504-7600</p> <p><b>Public hearing CANCELLED:</b> (We did not get a request by <b>April 12, 2023.</b>) April 18, 2023, 6 p.m. online</p> <p>For more information, contact <a href="#">Anthony Bruma</a> at 564-669-1484.</p>



# Appendix D3. Legal Notice in The Daily Journal of Commerce

STATE OF WASHINGTON -- KING COUNTY

--SS.

415087  
DEPT OF ECOLOGY

No.

## Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

PN:EFSEC COMMENT PERIOD

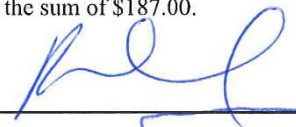

was published on

03/14/23

The amount of the fee charged for the foregoing publication is the sum of \$187.00.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
03/15/2023  
\_\_\_\_\_  
  
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

SECRET  
**DAILY JOURNAL OF COMMERCE**  
ADVERTISING PROOF

Date: 03/13/2023  
Adnum: 415087  
Custid: 3542

Customer: DEPT OF ECOLOGY  
Ad Title: Public Comment Period -- EFSEC  
Lines: 68

**State of  
Washington**

**Legal Notice: State of  
Washington**

**Public Comment Period and  
Opportunity to Request a  
Public Hearing**

On behalf of the Energy Facility Site Evaluation Council (EFSEC), Ecology proposes to submit to EPA revisions to EFSEC's General and Operating Permit Regulations for Air Pollution Sources, Chapter 463-78 WAC, for inclusion in Washington's State Implementation Plan (SIP). The federal Clean Air Act requires such SIP revisions to ensure that EFSEC's rules are federally enforceable. No changes to existing state or local rules are being proposed.

Ecology invites the public to review and comment on the proposed plan update from March 13 to April 21, 2023.

To comment and to request a public hearing:

- Submit written comments online at: <https://aq.ecology.wa.gov/commentinput/?id=7BJU6>
- Testify at the online hearing on April 18, 2023 (if held)
- Mail comments and requests to:

Anthony Bruma, Department of Ecology, P.O. Box 47600, Olympia, WA 98504

- More information on the proposed SIP revision is available at: <https://ecology.wa.gov/Regulations-Permits/Plans-policies/State-implementation-plans/Infrastructure-SIPs>.

Requests for a hearing must be received no later than April 12, 2023, by 5:00PM. If requested, a hearing will be held on April 18, 2023, at 6PM by webinar to present information and accept oral comments. If no hearing is requested, Ecology will post the cancellation on its Public Involvement Calendar.

To request ADA accommodation including printed materials in a format for the visually impaired, contact Ecology at 360-280-4325 or [ecyadacoordinator@ecy.wa.gov](mailto:ecyadacoordinator@ecy.wa.gov). Persons with impaired hearing may call Washington Relay Service at 711. Persons with

a speech disability may call TTY at 877-833-6341.

Date of publication in the Seattle Daily Journal of Commerce, March 14, 2023.

3/14(415087)

## Appendix D4. GovDelivery Notices

### Appendix D4a. Notice sent to email subscribers of Ecology's Air Quality Rule and SIP Updates

Washington SIP Notice: Public Comment Period for EFSEC's SIP Revision

Page 1 of 3

**This is a courtesy copy of an email bulletin sent by Anthony Bruma.**

**This bulletin was sent to the following groups of people:**

Subscribers of ECY-AQ-RULE-AND-SIP-UPDATES (991 recipients)



## Ecology Opens a Public Comment Period for EFSEC's SIP Revision

[Comment or Request a Hearing Online](#)

### Background

The Environmental Protection Agency (EPA) previously determined that the Energy Facility Site Evaluation Council (EFSEC) had failed to submit a State Implementation Plan (SIP) revision of its Startup, Shutdown, and Malfunction (SSM) regulations.

Ecology proposes to send EPA this SIP revision to include EFSEC's now updated SSM rules into the SIP. The proposed SIP revision would modify or remove outdated rules, that the EPA previously determined to be deficient in meeting Clean Air Act requirements and add EFSEC's current rules into the SIP.

The federal Clean Air Act requires such SIP revisions to ensure that EFSEC's rules are federally enforceable. No changes to existing state or local rules are being proposed.

### Proposed SIP Revisions

This proposed SIP revision relates to SSM provisions that EFSEC adopted by reference in its General and Operating Permit Regulations for Air Pollution Sources, [Chapter 463-78 of the Washington Administrative Code \(WAC\)](#). The primary purpose of this SIP revision is to answer the [EPA's 2015 SIP call](#) by updating the SIP for [EFSEC's jurisdiction](#) to include revised

mhtml:file:///C:/Users/abru461/AppData/Local/Microsoft/Windows/INetCache/Content.Ou... 3/16/2023

SSM regulations that EFSEC adopted by reference from [Chapter 173-400 WAC](#) on July 28, 2020.

- [View Public Review Draft](#)
- [View Public Comment Form](#)

## Public Engagement

Ecology is seeking public comments regarding this SIP revision before it is submitted to the EPA for inclusion into the SIP. Ecology has invited the public to review and comment on the proposed plan update from **March 13 to April 21, 2023**.

Requests for a hearing must be received no later than **April 12, 2023, by 5:00PM**. If requested, a hearing will be held on **April 18, 2023, at 6:00PM** by webinar to present information and accept oral comments. If no hearing is requested, Ecology will post the cancellation on its [Public Involvement Calendar](#).

Find how to request a public hearing or comment online at Ecology's [Infrastructure, rule, & program plans](#) page.

## More Information

To learn more about the Washington State Implementation Plan, including its purpose and Ecology's role, please refer to the Ecology SIP page online.

[Ecology SIP Page](#)

---

---

## Accessibility

To request an ADA accommodation, including printed materials in a format for the visually impaired, please contact Ecology at 360-280-4325 or [ecyadacoordinator@ecy.wa.gov](mailto:ecyadacoordinator@ecy.wa.gov).

Persons with impaired hearing may call Washington Relay Service at 711. Persons with a speech disability may call TTY at 877-833-6341.

[Subscribe/Unsubscribe](#)   [Our Website](#)   [Accessibility](#)

---

mhtml:file://C:\Users\abru461\AppData\Local\Microsoft\Windows\INetCache\Content.Ou... 3/16/2023

# Appendix D4b. Notice sent to email subscribers of EFSEC’s rulemaking mailing list



Home (/) » Council Information (/council-information) » Rulemaking

## COUNCIL INFORMATION (/COUNCIL-INFORMATION)

[EFSEC Calendar \(/calendar/month\)](/calendar/month)

[Council Meetings \(/council-information/council-meetings\)](/council-information/council-meetings)

[Orders \(/council-information/orders\)](/council-information/orders)

[Resolutions \(/council-information/resolutions\)](/council-information/resolutions)

[Laws, Rules and Policies \(/council-information/laws-rules-and-policies\)](/council-information/laws-rules-and-policies)

**[Rulemaking \(/council-information/rulemaking\)](/council-information/rulemaking)**

## Rulemaking

### 2023 State Implementation Plan (SIP) revision:

### 2023 SIP Revision

Document Title (/council-information/rulemaking?utm_medium=PANTHEON_STRIPPE&utm_source=PANTHEON_STRIPPE&order=field_doc_friendly_name&sort=asc)	Document Date
SIP Revision Public Notice ( <a href="https://www.efsec.wa.gov/system/temporary/filefield_paths/20230314_EFSEC_SIP_PublicNotice.pdf">https://www.efsec.wa.gov/system/temporary/filefield_paths/20230314_EFSEC_SIP_PublicNotice.pdf</a> )	03/14/2023

### Air Rule Update:

EFSEC accepted public comment June 3, 2020 through July 20, 2020 for the revision of WAC 463-78 – General and operating permit regulations for air pollution sources. The purpose of the proposed rule revisions are to be consistent with Ecology and EPA rules and to ensure that EFSEC issued permits are in line with current EPA and Ecology regulations. Additionally, the Washington Air Quality State Implementation Plan (SIP) is pending update, and requires that EFSEC’s rules be updated to move forward. Because EFSEC would be adopting by reference rules that have already been through public comment via the department of Ecology’s rule making process, this update to EFSEC rules qualifies for the expedited process.

Documents:

- Notice (/sites/default/files/181034/00083/202000603\_EFSEC\_AirRuleUpdatePubNotice.pdf)
- CR-105 (/sites/default/files/181034/00083/20200520\_WSR\_20\_11\_082.pdf)
- WAC 463-78 (/sites/default/files/181034/00083/20200520\_OTS\_2306\_1ForFiling.pdf) revisions

---

Chapter 463-76 WAC (<http://app.leg.wa.gov/WAC/default.aspx?cite=463-76>) - Regulations for Compliance with National Pollutant Discharge Elimination System (NPDES) Program

## Current Rulemaking

Document Title (/council-information/rulemaking?utm_medium=PANTHEON_STRIPPE&utm_source=PANTHEON_STRIPPE&order=field_doc_friendly_name&sort=asc)	Document Date
CR - 105 ( <a href="https://www.efsec.wa.gov/sites/default/files/181034/00083/20200520_WSR_20_11_082.pdf">https://www.efsec.wa.gov/sites/default/files/181034/00083/20200520_WSR_20_11_082.pdf</a> )	05/20/2020
CR-101 ( <a href="https://www.efsec.wa.gov/sites/default/files/181034/00025/WSR%2017-16-078.pdf">https://www.efsec.wa.gov/sites/default/files/181034/00025/WSR%2017-16-078.pdf</a> )	08/16/2017
Notice of Proposed Rulemaking ( <a href="https://www.efsec.wa.gov/sites/default/files/181034/00025/20170816_NotPrpsdRlmkg.pdf">https://www.efsec.wa.gov/sites/default/files/181034/00025/20170816_NotPrpsdRlmkg.pdf</a> )	08/16/2017
WAC 463-76-054 Revisions ( <a href="https://www.efsec.wa.gov/sites/default/files/181034/00025/WAC%20463-76-054%20Revisions.pdf">https://www.efsec.wa.gov/sites/default/files/181034/00025/WAC%20463-76-054%20Revisions.pdf</a> )	08/16/2017
WAC 463-76-062 Revisions ( <a href="https://www.efsec.wa.gov/sites/default/files/181034/00025/WAC%20463-76-062%20Revisions.pdf">https://www.efsec.wa.gov/sites/default/files/181034/00025/WAC%20463-76-062%20Revisions.pdf</a> )	08/16/2017
WAC 473-78 ( <a href="https://www.efsec.wa.gov/sites/default/files/181034/00083/20200520_OTS_2306_1ForFiling.pdf">https://www.efsec.wa.gov/sites/default/files/181034/00083/20200520_OTS_2306_1ForFiling.pdf</a> )	05/20/2020

### EFSEC Rule making Mailing List:

If you would like to be added to the Rulemaking mailing list, please click this link ([http://public.govdelivery.com/accounts/WAUTC/subscriber/new?topic\\_id=WAUTC\\_84](http://public.govdelivery.com/accounts/WAUTC/subscriber/new?topic_id=WAUTC_84))

**NOTE:** This link takes you to a UTC mailing list form that will directly add you to the Columbia Generating Station Project mailing list. Please enter your email address and it will sign you up for this project mailing list.

---

© Copyright 2019 by the Washington State Energy Facility Site Evaluation Council (EFSEC)

# Appendix D5. E-Comment page for receiving public comments online



Search Comment Items

## Public Comment Form

Commenting open: **March 13, 2023 12:00AM PT - April 21, 2023 11:59PM PT.**

### State Implementation Plan Revision of EFSEC's Startup, Shutdown, and Malfunction Regulations

Please note that this comment form is for the purpose of submitting a comment to the Washington State Department of Ecology. Contact information is necessary if you want to receive future notices or responses related to this topic.

We would like your comments on a draft of the Energy Facility Site Evaluation Council's (EFSEC's) proposed revision to the State Implementation Plan. This proposed SIP revision relates to Startup, Shutdown, and Malfunction (SSM) regulations that the Environmental Protection Agency (EPA) previously determined to be insufficient at meeting federal Clean Air Act (CAA) requirements.

Let us know by **04/12/2023** if you would like to request a public hearing.

- We have scheduled a tentative public hearing on **04/18/2023 at 6PM.**
- If we do not receive a request by the hearing request deadline (**04/12/2023**), we will cancel the public hearing.
- If a hearing is requested, we will update the web page with the public hearing information.

#### Contact Information

All fields are optional unless otherwise indicated.

Submitted By

Individual

First Name

Last Name

Address

City

Country

United States

State

Washington

ZIP

Email

#### Your Comment

To make a comment, please enter comment(s) in the text area below. To submit attachments, use the 'Upload File' button below. When you are done, hit 'Continue' to review your comment(s).

To submit comments for a group please visit our [Commenting Tips webpage](#).

**Next steps**

After the comment period ends, we will:

- Review and respond to comments.
- Finalize our recommendation and send it to EPA.
- Update those who provide contact information.

Any information (e.g., personal or contact) you provide on this comment form or in an attachment may be publicly disclosed and posted on the Internet.

[View Comments](#)

[View Document](#)

Insert comments on State Implementation Plan Revision of EFSEC's Startup, Shutdown, and Malfunction Regulations

Upload A File

*\*Uploading a file is optional\**

You may attach up to five 30 MB files to accompany your submission. Allowed formats are pdf, jpg, jpeg, png, txt, gif, doc, docx. If you experience technical difficulties submitting your comment please contact the person listed at the bottom of this page.

[Continue »](#)



Powered by SmartComment Software  
Copyright ©2023 All Rights Reserved.

Anthony Bruma

[\(564\) 669-1484](tel:5646691484)

[anthony.bruma@ecy.wa.gov](mailto:anthony.bruma@ecy.wa.gov)

<https://ecology.wa.gov/About-us/Accessibility-equity/Accessibility>



## **Appendix E. SIP Adoption Order and Transmittal Letter to EPA**

Appendix E includes signed copies of the SIP Adoption Order and Transmittal Letter to EPA.

# Adoption Order



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**  
PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

---

In the matter of adopting Energy Facility Site Evaluation Council's current  
General and Operating Permit Regulations for Air Pollution Sources  
(Chapter 463-78 WAC) in the Washington State Implementation Plan

---

## Adoption Order

The Energy Facility Site Evaluation Council (EFSEC) requests that the Washington State Department of Ecology (Ecology) propose to the United States Environmental Protection Agency (EPA) updated **Startup, Shutdown, and Malfunction Regulations from Energy Facility Site Evaluation Council's Chapter 463-78 Washington Administrative Code** for inclusion in the Washington State Implementation Plan (SIP). This SIP revision applies to sources under EFSEC's authority. EFSEC's request is to:

- Answer the Environmental Protection Agency's 2015 Startup, Shutdown, Malfunction (SSM) SIP Call by updating the SIP for EFSEC's jurisdiction to include revised SSM regulations that EFSEC adopted by reference from Chapter 173-400 WAC.

Ecology met all state and federal public involvement procedural requirements for this SIP revision by taking the following actions:

- Announced the public comment period (March 13, 2023 through April 21, 2023) and tentative public hearing date (April 18, 2023) on Ecology's "Infrastructure, rule, and program plans" and "Events Listing" webpages as well as in emails to subscribers of Ecology's "Air Quality Rules and SIP Updates" distribution list.
- Published a legal notice in the *Seattle Daily Journal of Commerce* on March 14, 2023.

As required, Ecology provided the public with at least 30 days of notice to request a hearing. No request was made and so we did not hold a public hearing, as allowed by 40 C.F.R. Section 51.102. Additionally, we did not receive any comment on the proposed SIP revision.

IT IS HEREBY ORDERED that the referenced documents, constituting the revision, are approved and adopted by the Director of the Department of Ecology, on behalf of Governor Inslee, as part of the Washington SIP. All provisions of the Washington SIP inconsistent with the attached documents are superseded.

A handwritten signature in black ink, appearing to read "L. Watson", written over a horizontal line.

Laura Watson, Director  
Department of Ecology

Date: June 6, 2023

---



# Transmittal Letter



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

June 6, 2023

Casey Sixkiller, Regional Administrator  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101

RE: State Implementation Plan Revision of Startup, Shutdown, and Malfunction Regulations from Energy Facility Site Evaluation Council's Chapter 463-78 Washington Administrative Code

Dear Regional Administrator Sixkiller:

As the Governor's designee for the Washington State Implementation Plan (SIP), I am submitting this proposed SIP revision to include updated **Startup, Shutdown, and Malfunction Regulations from Energy Facility Site Evaluation Council's Chapter 463-78 WAC** in the Washington SIP.

On January 11, 2022, the Environmental Protection Agency shared a final action (87 FR 1680) that issued findings of failure to submit (FFS) to the 12 air agencies that, as of that date, had not yet submitted SIP revisions responding to the 2015 SIP call related to startup, shutdown, malfunction (SSM). In the state of Washington, the Energy Facility Site Evaluation Council (EFSEC) is one of the air agencies included in the FFS.

The purpose of this SIP revision is to address the EPA's finding of failure to submit SSM SIP revisions by updating the SIP for EFSEC's jurisdiction to be consistent with the changes that were made to Chapter 173-400 WAC and submitted by Ecology to the EPA in 2019.

Ecology met all state and federal public involvement procedural requirements for this SIP revision by taking the following actions:

- Announced the public comment period (March 13, 2023 through April 21, 2023) and tentative public hearing date (April 18, 2023) on Ecology's "Infrastructure, rule, and program plans" and "Events Listing" webpages as well as in emails to subscribers of Ecology's "Air Quality Rules and SIP Updates" distribution list.
- Published a legal notice in the *Seattle Daily Journal of Commerce* on March 14, 2023.

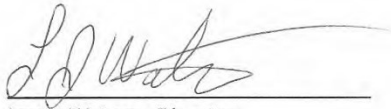
As required, Ecology provided the public with at least 30 days of notice to request a hearing. No request was made and so we did not hold a public hearing, as allowed by 40 C.F.R. Section 51.102. Additionally, we did not receive any comment on the proposed SIP revision.

Regional Administrator Sixkiller  
June 6, 2023  
Page 2

I therefore submit the enclosed material for your review and approval in the Washington SIP – to be applicable within EFSEC’s jurisdiction. Ecology is submitting this SIP revision package electronically through EPA’s Central Data Exchange. Additionally, Ecology will publish a copy of this SIP revision on our website.

If you have any questions about this submittal, please contact Anthony Bruma, Environmental Planner, at [anthony.bruma@ecy.wa.gov](mailto:anthony.bruma@ecy.wa.gov) or (564) 669-1484.

Sincerely,



Laura Watson, Director  
Department of Ecology

Enclosures: SIP Revision Package for Including Updated Startup, Shutdown, and Malfunction  
Regulations from Energy Facility Site Evaluation Council’s Chapter 463-78  
Washington Administrative Code

cc: Randall Ruddick, EPA Region 10 (without enclosures)  
Jeff Hunt, EPA Region 10 (without enclosures)  
Records file (with enclosures)

