

TRANSMITTAL OF RULES ADOPTED

FROM: Energy Facility Site Evaluation Council  
(Name of Agency)

TO: CODE REVISER  
LEGISLATIVE BLDG. (Southwest Corner, Ground Floor)  
OLYMPIA 98504

The enclosed rules  Permanent rules, being Order No. 104  
 Emergency rules

relating to (Name of rules or description of subject matter)

Agency Definitions and Statement of Policy and  
Statutory Interpretations

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 7200 <sup>①</sup> filed with the code reviser  
on 10/13/76 <sup>②</sup> were regularly adopted as permanent rules of  
(date)  
this agency at Olympia, WA on 10/25/76 and are herewith  
(place) (date)  
filed in the office of the code reviser pursuant to chapter 34.04  
RCW. The effective date of such rules shall be \_\_\_\_\_ <sup>③</sup>

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding in the attached administrative order,  
that the immediate adoption of these rules is necessary for the  
preservation of the public health, safety, or general welfare and  
that observance of the requirements of notice and opportunity to  
present views on the proposed action would be contrary to the  
public interest, were regularly adopted as emergency rules of this  
agency at \_\_\_\_\_ on \_\_\_\_\_ and  
(place) (date)  
are herewith filed in the office of the code reviser pursuant to  
chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter  
34.04 RCW and of the Open Public Meetings Act of 1971, chapter  
42.30 RCW have been fulfilled.

Dated this 3rd day of November 1976.

Energy Facility Site Evaluation Council  
(AGENCY)

Roger Polzin  
By Roger Polzin  
Executive Secretary  
Title



① Notice number as appears on the copy of notice returned to you by  
reviser's office (if proceedings were continued, use no. of last notice)  
② Stamped date as appears on the copy of notice returned to you by  
reviser's office (if proceedings were continued, use date of last notice)  
③ Unless a later date is specified in this order or is prescribed in  
another statute, rules are effective 30 days after filing:  
RCW 34.04.040. Leave this space blank except in such special cases.  
[Order 9, filed 9/25/74, eff. 10/25/74] [Form CR-2: Rev. 9/21/74]

Resolution No. 104

WHEREAS, the Energy Facility Site Evaluation Council has promulgated a notice of intent to adopt, amend or repeal rules concerning Agency Definitions and Statement of Policy and Statutory Interpretations; and

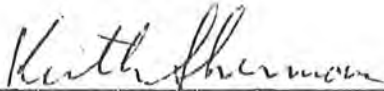
WHEREAS, notice of such proposed adoption, amendment or repeal was contained in Notice No. 6145 filed September 8, 1976, with the Code Reviser's office and continued by Notice No. 7200 filed October 13, 1976, with the Code Reviser's office;

NOW THEREFORE BE IT RESOLVED by the Energy Facility Site Evaluation Council that WAC 463-08-011 is hereby repealed; and


BE IT FURTHER RESOLVED by the Energy Facility Site Evaluation Council that the rules listed on Exhibit "A" attached hereto, and by this reference made a part hereof, concerning Agency Definitions and Statement of Policy and Statutory Interpretations, are hereby approved and adopted as permanent rules of the Energy Facility Site Evaluation Council;

BE IT FURTHER RESOLVED by the Energy Facility Site Evaluation Council that this resolution and annexed regulations, after first being recorded in the Order Register of the Energy Facility Site Evaluation Council, shall be forwarded to the Code Reviser for filing pursuant to RCW 34.04.


Dated this 25th day of October 1976.

  
\_\_\_\_\_  
Keith Sherman, Chairman

ATTEST:

  
\_\_\_\_\_  
Roger (Polzin)  
Executive Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Tom Carr  
Assistant Attorney General

DEFINITIONS

1  
2  
3 WAC 463-10- DEFINITIONS. Except where otherwise indicated  
4 in the following chapters, the following terms have the meaning shown:

5 (1) "Council" refers to the Energy Facility Site Evaluation  
6 Council created pursuant to chapter 80.50 RCW and, where appropriate,  
7 to the staff of the Council.

8 (2) "Applicant" means the person or entity making application  
9 for a certification or permit covered by this title.

10 (3) "Contested case" means a proceeding conducted pursuant to  
11 RCW 80.50.090(3) and the state administrative procedures act.

1 POLICY AND INTERPRETATION

2  
3 WAC 463-14- PURPOSE OF THIS CHAPTER. The purpose of this  
4 chapter is to publicize significant policy determinations and  
5 interpretations by which the Council is guided in implementing  
6 chapter 80.50 RCW and this title.

7  
8 WAC 463-14- NEED FOR ENERGY--LEGISLATIVE INTENT BINDING.  
9 RCW 80.50.010 requires the Council "to recognize the pressing need  
10 for increased energy facilities." In acting upon any application  
11 for certification, the Council action will be based on the policies  
12 and premises set forth in RCW 80.50.010(1), (2), and (3).

13  
14 WAC 463-14- PUBLIC HEARINGS POLICY. RCW 80.50.090 requires  
15 a minimum of two public hearings concerning each site for which  
16 certification is sought. The first of these is the local public  
17 hearing described in RCW 80.50.090(1) and (2) where the Council is  
18 obligated to determine whether or not the proposed use of the site  
19 is consistent and in compliance with county or regional land use  
20 plans or zoning ordinances at the time of application. However, in  
21 order to foster general public comment on the proposed site, the  
22 Council will allow general public comment at such local public  
23 hearings, wherever possible. The Council must also conduct a second  
24 public hearing as a contested case proceeding under chapter 34.04  
25 RCW. Although all persons desirous of participating may not be  
26 accorded "party" status in this proceeding, upon compliance with  
27 reasonable procedures, any person desiring to be heard shall be  
28 allowed to speak in favor of or in opposition to the proposed  
29 facility after the close of the evidentiary hearing but prior to  
30 preparation of any recommendation to the governor. The Council  
31 views the provisions of RCW 80.50.090(4) as authorizing it to  
32 conduct additional public hearings of either the "local public  
33 hearing" or "contested case proceeding" variety.

1        WAC 463-14-        COUNTY AND PORT DISTRICT REPRESENTATIVES--  
2 SEGMENTATION OF HEARINGS AND ISSUES. RCW 80.50.030(4) and (5)  
3 necessitate segmentation of hearings and issues in instances where  
4 proposed energy facilities would extend beyond the boundaries of a  
5 single county and/or port district.

6  
7        WAC 463-14-        PRE-EMPTION. Chapter 80.50 RCW operates as a  
8 state pre-emption of all matters relating to energy facility sites.  
9 Chapter 80.50 RCW certification is given in lieu of any permit,  
10 certificate, or similar document which might otherwise be required.

11  
12        WAC 463-14-        OPEN MEETINGS WITH FULL DISCUSSION. All Council  
13 proceedings are to be conducted in a manner consistent with the spirit  
14 of the state open meetings act, and not merely according to the letter  
15 of that law. To this same end, full and open discussion between  
16 Council members themselves, as well as between Council members, mem-  
17 bers of the staff and persons appearing before the Council, shall be  
18 fostered and encouraged at all regular and special meetings.

19  
20        WAC 463-14-        INTEGRATION OF COUNCIL ACTIVITIES WITH FEDERAL  
21 AGENCY ACTIVITIES. In consonance with RCW 80.50.040(12), the Council  
22 hereby adopts a policy of holding joint hearings, whenever practical  
23 and desirable, with federal agencies having jurisdiction over matters  
24 affecting certification under ch. 80.50. RCW.

25  
26  
27  
28  
29  
30  
31  
32  
33

NEW

WAC 463-10-010 DEFINITIONS. Except where otherwise indicated in the following chapters, the following terms have the meaning shown:

(1) "Council" refers to the Energy Facility Site Evaluation Council created pursuant to chapter 80.50 RCW and, where appropriate, to the staff of the Council.

(2) "Applicant" means the person or entity making application for a certification or permit covered by this title.

(3) "Contested case" means a proceeding conducted pursuant to RCW 80.50.090(3) and the state administrative procedures act.

NEW

WAC 463-14-010 PURPOSE OF THIS CHAPTER. The purpose of this chapter is to publicize significant policy determinations and interpretations by which the Council is guided in implementing chapter 80.50 RCW and this title.

NEW

WAC 463-14-020 NEED FOR ENERGY--LEGISLATIVE INTENT BINDING. RCW 80.50.010 requires the Council "to recognize the pressing need for increased energy facilities." In acting upon any application for certification, the Council action will be based on the policies and premises set forth in RCW 80.50-.010(1), (2), and (3).

NEW

WAC 463-14-030 PUBLIC HEARINGS POLICY. RCW 80.50.090 requires a minimum of two public hearings concerning each site for which certification is sought. The first of these is the local public hearing described in RCW 80.50.090(1) and (2) where the Council is obligated to determine whether or not the proposed use of the site is consistent and in compliance with county or regional land use plans or zoning ordinances at the time of application. However, in order to foster general public comment on the proposed site, the Council will allow general public comment at such local public hearings, wherever possible. The Council must also conduct a second public hearing as a contested case proceeding under chapter 34.04 RCW. Although all persons desirous of participating may not be accorded "party" status in this proceeding, upon compliance with reasonable procedures, any person desiring to be heard shall be allowed to speak in favor of or in opposition to the proposed facility after the close of the evidentiary hearing but prior to preparation of any recommendation to the governor. The Council views the provisions of RCW 80.50.090(4) as authorizing it to conduct additional public hearings of either the "local public hearing" or "contested case proceeding" variety.

NEW

WAC 463-14-040 COUNTY AND PORT DISTRICT REPRESENTATIVES--SEGMENTATION OF HEARINGS AND ISSUES. RCW 80.50.030(4) and (5) necessitate segmentation of hearings and issues in instances where proposed energy facilities would extend beyond the boundaries of a single county and/or port district.

NEW

WAC 463-14-050 PRE-EMPTION. Chapter 80.50 RCW operates as a state pre-emption of all matters relating to energy facility sites. Chapter 80.50 RCW certification is given in lieu of any permit, certificate, or similar document which might otherwise be required.

NEW

WAC 463-14-060 OPEN MEETINGS WITH FULL DISCUSSION. All Council proceedings are to be conducted in a manner consistent with the spirit of the state open meetings act, and not merely

according to the letter of that law. To this same end, full and open discussion between Council members themselves, as well as between Council members, members of the staff and persons appearing before the Council, shall be fostered and encouraged at all regular and special meetings.

NEW

WAC 463-14-070 INTEGRATION OF COUNCIL ACTIVITIES WITH FEDERAL AGENCY ACTIVITIES. In consonance with RCW 80.50-.040(12), the Council hereby adopts a policy of holding joint hearings, whenever practical and desirable, with federal agencies having jurisdiction over matters affecting certification under ch. 80.50. RCW.

REP

WAC 463-08-011 is hereby repealed.