

including the last, unless the last day is a Saturday, Sunday or a legal holiday, and then it is excluded and the next succeeding day which is neither a Saturday, Sunday nor a legal holiday is included. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(2) This section also pertains to the period for filing with the board any petition for review, petition for rule making, petition for declaratory ruling or any other adjudication which this chapter authorizes.

[Statutory Authority: RCW 90.58.175 and SHB 1314. 97-19-063, § 461-08-310, filed 9/15/97, effective 10/16/97. Statutory Authority: RCW 90.58.175 and Den Beste v. Washington, No. 13967-1-III (Div. III, April 18, 1996). 96-17-017, § 461-08-310, filed 8/12/96, effective 9/12/96.]

WAC 461-08-560 Deadline for the board to issue final decision on petitions for review of permitting decisions. Waivers and extensions of deadline. (1) The board shall, pursuant to RCW 90.58.180, issue a final decision on petitions for review arising out of the granting, denying or rescinding of a permit within one hundred eighty days of the following:

(a) The date the petition for review is filed; or

(b) The date a motion to intervene is filed by the department or the attorney general, whichever is later.

(2) The parties may agree to waive the one hundred eighty-day deadline.

(3) The board may, on its own motion, extend the deadline for thirty days after determining that good cause exists for the extension.

[Statutory Authority: RCW 90.58.175 and SHB 1314. 97-19-063, § 461-08-560, filed 9/15/97, effective 10/16/97. Statutory Authority: RCW 90.58.175. 96-15-002, § 461-08-560, filed 7/3/96 effective 8/3/96.]

WAC 461-08-570 Time for filing petitions for review to superior court. An appeal of a final board order is called a petition for review. A petition for review must be filed with superior court within thirty days of the date that the board issues its final order or decision. The petitioner shall file a copy of the petition for review to superior court with the board and all parties of record. All appeals must first be filed in superior court even if direct review to the court of appeals will be sought.

[Statutory Authority: RCW 90.58.175 and SHB 1314. 97-19-063, § 461-08-570, filed 9/15/97, effective 10/16/97. Statutory Authority: RCW 90.58.175. 96-15-002, § 461-08-570, filed 7/3/96 effective 8/3/96.]

Title 463 WAC

ENERGY FACILITY SITE EVALUATION COUNCIL

(Formerly: Thermal Power Plant Evaluation Council)

Chapters

- 463-06** General—Organization—Public records.
- 463-10** Definitions.
- 463-14** Policy and interpretation.
- 463-18** Procedure—Regular and special council meetings.
- 463-30** Procedure—Adjudicative proceedings.
- 463-47** SEPA rules.

Chapter 463-06 WAC

GENERAL—ORGANIZATION—PUBLIC RECORDS

WAC

- | | |
|------------|--------------------------------|
| 463-06-010 | Organization of this title. |
| 463-06-020 | Description of organization. |
| 463-06-030 | Council office—Business hours. |

WAC 463-06-010 Organization of this title. This title (Title 463 WAC) contains the regulations by which the energy facility site evaluation council (hereafter, the council) functions under state and federal law.

Chapter 463-06 WAC contains general informational provisions relating to agency operation and public records handling which are required by the state Administrative Procedure Act and state laws relating to public records.

Chapter 463-10 WAC contains definitions of terms used throughout this title.

Chapter 463-14 WAC sets forth a number of significant policy and interpretive provisions relating to the scope and application of chapter 80.50 RCW and these rules.

Chapter 463-18 WAC deals with procedures for the conduct of business at regular and special council meetings.

Chapter 463-22 WAC sets forth procedures to be followed when a request for a potential site study is submitted under RCW 80.50.175.

Chapter 463-26 WAC sets forth procedures governing the public hearings referred to in RCW 80.50.090 (1), (2), and (4).

Chapter 463-28 WAC sets forth the council's procedures in determining whether to recommend that the state preempt local land use plans or zoning ordinances for a site.

Chapter 463-30 WAC contains procedural provisions governing adjudicative proceedings held pursuant to RCW 80.50.090(3).

Chapter 463-34 WAC outlines procedures for rule making and for obtaining declaratory orders from the council.

Chapter 463-36 WAC sets forth the council's procedures in amending or terminating a site certification agreement.

Chapter 463-38 WAC contains procedure and guidelines relating to issuance of permits to discharge pollutants into Washington waters pursuant to federal law.

Chapter 463-39 WAC provides the basic framework for the conduct of the council's responsibilities for air pollution prevention and control.

Chapter 463-42 WAC embodies council procedures and guidelines governing preparation of applications for energy facility site certification.

Chapter 463-43 WAC sets forth requirements for preparation and processing of applications which qualify for expedited processing.

Chapter 463-47 WAC implements the state-wide SEPA rules in chapter 197-11 WAC.

Chapter 463-50 WAC defines guidelines for the use of independent consultants pursuant to RCW 80.50.070 and 80.50.175.

Chapter 463-54 WAC sets forth procedures and guidelines for performance of surveillance monitoring by the council pursuant to RCW 80.50.040(11).

Chapter 463-58 WAC contains rules relating to independent consultant fees for potential site study, application processing, and compliance determination.

[Statutory Authority: RCW 80.50.040(1), 98-01-079, § 463-06-010, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040, 91-03-090, § 463-06-010, filed 1/18/91, effective 2/18/91; Order 103, § 463-06-010, filed 11/4/76.]

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

(2) The chair of the council is the person appointed by the governor with the advice and consent of the senate to a term coextensive with that of the governor pursuant to RCW 80.50.030. The chair has a vote on all matters before the council and has an office at the department of community, trade, and economic development.

(3) The department of community, trade, and economic development provides administrative services and staff to the council.

[Statutory Authority: RCW 80.50.040(1) and 34.05.220 [(1)](b), 98-01-078, § 463-06-020, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040(1), 92-09-013, § 463-06-020, filed 4/2/92, effective 5/3/92; 78-09-077 (Order 78-4), § 463-06-020, filed 8/28/78; Order 103, § 463-06-020, filed 11/4/76.]

WAC 463-06-030 Council office—Business hours. The council office is located at the Department of Community, Trade, and Economic Development, 925 Plum Street S.E., Olympia, Washington. It is open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., Saturdays, Sundays, and legal holidays excepted. Notices, applications, business correspondence, or other communication should be sent to the council office.

[Statutory Authority: RCW 80.50.040(1) and 34.05.220 [(1)](b), 98-01-078, § 463-06-030, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040(1), 92-09-013, § 463-06-030, filed 4/2/92, effective 5/3/92;

81-20-028 (Order 81-4), § 463-06-030, filed 9/30/81; Order 103, § 463-06-030, filed 11/4/76. Formerly WAC 463-20-060.]

Chapter 463-10 WAC DEFINITIONS

WAC
463-10-010 Definitions.

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) "Adjudicative proceeding" means a proceeding conducted pursuant to RCW 80.50.090(3) and the state Administrative Procedure Act.

(4) "Certificate holder" means a person or entity who is signatory to a site certification agreement, which has been approved by the council and signed by the governor, and who is bound by the terms therein.

[Statutory Authority: RCW 80.50.040(1), 98-01-080, § 463-10-010, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040, 91-03-090, § 463-10-010, filed 1/18/91, effective 2/18/91; Order 104, § 463-10-010, filed 11/4/76.]

Chapter 463-14 WAC POLICY AND INTERPRETATION

WAC
463-14-070 Integration of council activities with federal agency activities.

WAC 463-14-070 Integration of council activities with federal agency activities. In consonance with RCW 80.50.040(10), the council hereby adopts a policy of holding joint hearings, whenever practical and desirable, with federal agencies having jurisdiction over matters affecting certification under chapter 80.50 RCW.

[Statutory Authority: RCW 80.50.040(1), 98-01-081, § 463-14-070, filed 12/12/97, effective 1/12/98; Order 104, § 463-14-070, filed 11/4/76.]

Chapter 463-18 WAC PROCEDURE—REGULAR AND SPECIAL COUNCIL MEETINGS

WAC
463-18-050 Special meetings.

WAC 463-18-050 Special meetings. A special meeting may be called at any time by the chair or by a majority of the members of the council by delivering personally or by mail written notice to each member; and to each local newspaper of general circulation and to each local radio or television station which has on file a written request to be notified of such special meetings of or all special meetings. Such notice must be delivered personally or by

mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the EFSEC manager a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

[Statutory Authority: RCW 80.50.040(1) and 34.05.250. 98-01-084, § 463-18-050, filed 12/12/97, effective 1/12/98; Order 105, § 463-18-050, filed 11/4/76.]

Chapter 463-30 WAC

PROCEDURE—ADJUDICATIVE PROCEEDINGS

WAC

463-30-080	Commencement of adjudicative proceedings.
463-30-120	Filing and service.
463-30-300	Hearing schedule guidelines.
463-30-330	Petition for review and replies.
463-30-335	Reconsideration.

WAC 463-30-080 Commencement of adjudicative proceedings. Adjudicative proceedings shall commence upon issuance of a formal notice of hearing or prehearing conference. The notice shall be served upon all parties at least twenty days in advance of the initial hearing date, unless the council finds that an emergency exists requiring the hearing or prehearing conference to be held upon less notice.

The time and place of continued hearing sessions may also be set:

- (1) Upon the record without further written notice to the parties; or
- (2) By letter from the EFSEC manager; or
- (3) By letter from the presiding officer.

In such instances, twenty days' prior notice is not required.

[Statutory Authority: RCW 80.50.040(1) and 34.05.250. 98-01-084, § 463-30-080, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040. 90-05-018, § 463-30-080, filed 2/13/90, effective 3/16/90. Statutory Authority: RCW 80.50.040(1). 81-07-019 (Order 81-1), § 463-30-080, filed 3/11/81; Order 109, § 463-30-080, filed 11/16/76.]

WAC 463-30-120 Filing and service. (1) Filing. Filing of any document shall be deemed complete only upon receipt by the EFSEC manager or other authorized agent of the council. Receipt in the council's telefax machine, or similar device, does not constitute filing. Unless in a particular case the council specifies a different number of copies, every pleading submitted to the council shall be filed with two copies. Filing a document with the council does not constitute service upon the office of the attorney general or

any other party. Likewise, service on the office of the attorney general does not constitute a filing with the council.

(a) Applications. Applications for a site certificate shall be filed in the manner prescribed by the rules governing such applications.

(b) Other pleadings. All pleadings shall be legible and a copy shall be served upon each party to the proceeding.

(2) Service.

(a) Service by parties. Service of pleadings by parties shall be made by delivering one copy to each party in person, by mail, properly addressed with postage prepaid, by commercial parcel delivery company properly tendered with fees prepaid, or by telefacsimile transmission, where originals are mailed simultaneously. Except as otherwise provided, when any party has appeared by attorney or other authorized representative, service upon such attorney or representative will be deemed valid service upon the party of all future pleadings before the council. Service of pleadings by mail shall be complete when a true copy of the document is properly addressed and stamped and deposited in the United States mail. Service by commercial parcel delivery company shall be complete when accepted for delivery by the company.

(b) Service by the council. All notices, findings of fact, decisions, and orders required to be served by the council may be served in person, by mail, by commercial parcel delivery company, properly tendered with fees prepaid, or by telefacsimile transmission, when originals are mailed simultaneously. Service of documents shall be complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail with first class postage affixed, or accepted for delivery by the parcel delivery company.

(c) Certificate of service. There shall appear on the original of every pleading when filed with the council in accordance with this subsection, either an acknowledgment of service, or the following certificate:

"I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by authorized method of service pursuant to WAC 463-30-120 (2)(a).

Dated at this day of

(signature)

[Statutory Authority: RCW 80.50.040(1) and 34.05.250. 98-01-084, § 463-30-120, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040. 90-05-018, § 463-30-120, filed 2/13/90, effective 3/16/90; Order 109, § 463-30-120, filed 11/16/76.]

WAC 463-30-300 Hearing schedule guidelines. In any adjudicative site certification proceeding the council shall, after consultation with the parties, schedule the hearing process so that the following general subject areas may be heard separately at specified times, to the extent they are in issue:

- (1) The description of the particular energy facility and the proposed site.
- (2) Consistency of the proposal with zoning and land use regulations.
- (3) Physical site suitability and related safety considerations.
- (4) NPDES, PSD, or other permits.

(5) On-site and local impacts (physical): Such as aquatic, terrestrial and atmospheric.

(6) On-site and local impacts (societal): Such as housing, services, recreation, economics, transportation, health, and tax base.

(7) Peripheral area impacts (all categories).

(8) Adverse impacts minimization and consideration of conditions of certification.

At the commencement of the hearing, the council shall publicly announce the proposed schedule by which the hearing is to be conducted. The council may alter the schedule.

[Statutory Authority: RCW 80.50.040(1) and 34.05.250. 98-01-083, § 463-30-300, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040. 90-05-018, § 463-30-300, filed 2/13/90, effective 3/16/90; Order 109, § 463-30-300, filed 11/16/76.]

WAC 463-30-330 Petition for review and replies.

(1) Any party to an adjudicative proceeding may file a petition for review of an initial order.

(2) The petition for review shall be filed with the EFSEC manager within twenty days of the date of service of the initial order unless a different place and time limit for filing the petition are specified in the initial order in its statement describing available procedures for administrative relief. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is filed.

(3) The petition for review shall specify the challenged portions of the initial order and shall refer to the evidence of record which is relied upon to support the petition.

(4) Any party may file an answer to a petition for review. The answer shall be filed with the EFSEC manager within fourteen days after the date of service of the petition and copies of the answer shall be served upon all other parties or their representatives at the time the answer is filed.

[Statutory Authority: RCW 80.50.040(1) and 34.05.250. 98-01-084, § 463-30-330, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040. 90-05-018, § 463-30-330, filed 2/13/90, effective 3/16/90; Order 109, § 463-30-330, filed 11/16/76.]

WAC 463-30-335 Reconsideration. A petition for reconsideration of a final order under RCW 34.05.470 shall be filed with the EFSEC manager.

[Statutory Authority: RCW 80.50.040(1) and 34.05.250. 98-01-084, § 463-30-335, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040. 90-05-018, § 463-30-335, filed 2/13/90, effective 3/16/90.]

Chapter 463-47 WAC SEPA RULES

WAC

463-47-020 Adoption by reference.
463-47-120 Critical areas.

WAC 463-47-020 Adoption by reference. The energy facility site evaluation council adopts the following sections or subsections of chapter 197-11 WAC by reference.

197-11-040 Definitions.
197-11-050 Lead agency.
197-11-055 Timing of the SEPA process.

197-11-060 Content of environmental review.
197-11-070 Limitations on actions during SEPA process.
197-11-080 Incomplete or unavailable information.
197-11-090 Supporting documents.
197-11-100 Information required of applicants.
197-11-300 Purpose of this part.
197-11-305 Categorical exemptions.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
197-11-360 Determination of significance (DS)/initiation of scoping.
197-11-390 Effect of threshold determination.
197-11-400 Purpose of EIS.
197-11-402 General requirements.
197-11-405 EIS types.
197-11-406 EIS timing.
197-11-408 Scoping.
197-11-410 Expanded scoping. (Optional)
197-11-420 EIS preparation.
197-11-425 Style and size.
197-11-430 Format.
197-11-435 Cover letter or memo.
197-11-440 EIS contents.
197-11-442 Contents of EIS on nonproject proposals.
197-11-443 EIS contents when prior nonproject EIS.
197-11-444 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-460 Issuance of FEIS.
197-11-500 Purpose of this part.
197-11-502 Inviting comment.
197-11-504 Availability and cost of environmental documents.
197-11-508 SEPA register.
197-11-510 Public notice.
197-11-535 Public hearings and meetings.
197-11-545 Effect of no comment.
197-11-550 Specificity of comments.
197-11-560 FEIS response to comments.
197-11-570 Consulted agency costs to assist lead agency.
197-11-600 When to use existing environmental documents.
197-11-610 Use of NEPA documents.
197-11-620 Supplemental environmental impact statement—Procedures.
197-11-625 Addenda—Procedures.
197-11-630 Adoption—Procedures.
197-11-635 Incorporation by reference—Procedures.
197-11-640 Combining documents.
197-11-650 Purpose of this part.
197-11-655 Implementation.
197-11-660 Substantive authority and mitigation.
197-11-680 Appeals.
197-11-700 Definitions.
197-11-702 Act.
197-11-704 Action.
197-11-706 Addendum.

- 197-11-708 Adoption.
 197-11-710 Affected tribe.
 197-11-712 Affecting.
 197-11-714 Agency.
 197-11-716 Applicant.
 197-11-718 Built environment.
 197-11-720 Categorical exemption.
 197-11-722 Consolidated appeal.
 197-11-724 Consulted agency.
 197-11-726 Cost-benefit analysis.
 197-11-728 County/city.
 197-11-730 Decisionmaker.
 197-11-732 Department.
 197-11-734 Determination of nonsignificance (DNS).
 197-11-736 Determination of significance (DS).
 197-11-738 EIS.
 197-11-740 Environment.
 197-11-742 Environmental checklist.
 197-11-744 Environmental document.
 197-11-746 Environmental review.
 197-11-750 Expanded scoping.
 197-11-752 Impacts.
 197-11-754 Incorporation by reference.
 197-11-756 Lands covered by water.
 197-11-758 Lead agency.
 197-11-760 License.
 197-11-762 Local agency.
 197-11-764 Major action.
 197-11-766 Mitigated DNS.
 197-11-768 Mitigation.
 197-11-770 Natural environment.
 197-11-772 NEPA.
 197-11-774 Nonproject.
 197-11-776 Phased review.
 197-11-778 Preparation.
 197-11-780 Private project.
 197-11-782 Probable.
 197-11-784 Proposal.
 197-11-786 Reasonable alternative.
 197-11-788 Responsible official.
 197-11-790 SEPA.
 197-11-792 Scope.
 197-11-793 Scoping.
 197-11-794 Significant.
 197-11-796 State agency.
 197-11-797 Threshold determination.
 197-11-799 Underlying governmental action.
 197-11-800 Categorical exemptions.
 197-11-880 Emergencies.
 197-11-890 Petitioning DOE to change exemptions.
 197-11-900 Purpose of this part.
 197-11-902 Agency SEPA policies.
 197-11-904 Agency SEPA procedures.
 197-11-906 Content and consistency of agency procedures.
 197-11-910 Designation of responsible official.
 197-11-912 Procedures on consulted agencies.
 197-11-914 SEPA fees and costs.
 197-11-916 Application to ongoing actions.
 197-11-917 Relationship to chapter 197-10 WAC.
 197-11-918 Lack of agency procedures.
 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
 197-11-924 Determining the lead agency.
 197-11-926 Lead agency for governmental proposals.
 197-11-928 Lead agency for public and private proposals.
 197-11-930 Lead agency for private projects with one agency with jurisdiction.
 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
 197-11-938 Lead agencies for specific proposals.
 197-11-940 Transfer of lead agency status to a state agency.
 197-11-942 Agreements on lead agency status.
 197-11-944 Agreements on division of lead agency duties.
 197-11-946 DOE resolution of lead agency disputes.
 197-11-948 Assumption of lead agency status.
 197-11-950 Severability.
 197-11-955 Effective date.
 197-11-960 Environmental checklist.
 197-11-965 Adoption notice.
 197-11-970 Determination of nonsignificance (DNS).
 197-11-980 Determination of significance and scoping notice (DS).
 197-11-985 Notice of assumption of lead agency status.
 197-11-990 Notice of action.

[Statutory Authority: RCW 80.50.040(1) and 43.21C.120. 98-01-082, § 463-47-020, filed 12/12/97, effective 1/12/98; 84-19-031 (Order 84-2), § 463-47-020, filed 9/14/84.]

WAC 463-47-120 Critical areas. In determining whether a proposal is exempt from SEPA, the council shall respect "critical area" designations made by local governments under WAC 197-11-908.

[Statutory Authority: RCW 80.50.040(1) and 43.21C.120. 98-01-082, § 463-47-120, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW 80.50.040(1). 84-19-031 (Order 84-2), § 463-47-120, filed 9/14/84.]

Title 466 WAC TOLL BRIDGE AUTHORITY

Chapters

- 466-02** Description of organization.
466-03 Public records.
466-04 Petitions for rule making, amendments or repeal.
466-07 Charter use of Washington state ferries.
466-08 Implementation of SEPA guidelines.