

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NOW THEREFORE BE IT RESOLVED by the Energy Facility Site Evaluation Council that WAC 463-08-011 is hereby repealed; and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



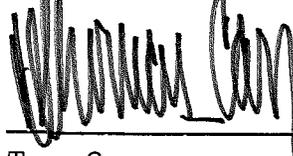
Keith Sherman, Chairman

ATTEST:



Roger Polzin
Executive Secretary

APPROVED AS TO FORM:



Tom Carr
Assistant Attorney General

DEFINITIONS

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WAC 463-10- 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.

1 POLICY AND INTERPRETATION

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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.

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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).

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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.

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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.