



PROPOSED RULE MAKING

CR-102

(Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Energy Facility Site Evaluation Council (EFSEC)

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 06-13-030 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

Chapter 463-28 WAC State Preemption. All subsections.
 Chapter 463-47 WAC SEPA Rules. Subsections 060, 090, 110, and 140.
 Chapter 463-66 WAC Amending, Transferring, or Terminating a Site Certification Agreement. Subsections 040, 070, and 080.

Hearing location(s):

<u>June 12, 2007</u> Energy Facility Site Eval. Council 3 rd Floor, Building 4 925 Plum Street SE Olympia, WA 9850.	<u>June 13, 2007</u> Yakima Area Arboretum 1401 Arboretum Drive Yakima, WA 98901
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Date: June 12, 2007 Time: 3:00 P.M
 Date: June 13, 2007 Time: 2:00 PM

Submit written comments to:

Name: Allen Fiksdal
 Address: PO Box 43712, Olympia, WA 98504-3172

e-mail efsec@cted.wa.gov
 fax (360)956-2158 by (date) June 13, 2007

Assistance for persons with disabilities: Contact

Tammy Talburt by June 1, 2007

TTY () _____ NA _____ or (360) 956-2121

Date of intended adoption: July 10, 2007

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Chapter 463-28 WAC State Preemption. Changes would expedite the siting of energy facilities where a project is found to be inconsistent with local land use plans and zoning ordinances by eliminating the requirement for the application to try to get local government to change land use plans or zoning ordinances prior to an adjudicative hearing.

Chapter 463-47 WAC SEPA Rules. Changes would streamline and reduce costs of siting energy facilities by 1) providing EFSEC the option of having SEPA documents prepared by EFSEC, an independent consultants, or the applicant; 2) giving EFSEC the option of preparing a Final Environmental Impact Statement before or after an adjudicative hearing; and 3) changing the immediate responsibility for SEPA activities from the Council to the Council's Responsible Official.

Chapter 463-66 WAC Amending, Transferring, or Terminating a Site Certification Agreement. Changes will clarify and expedite the process for amending Site Certification Agreement by having EFSEC to approve all amendments to Site Certification Agreements.

Reasons supporting proposal: These proposed rule changes would streamline EFSEC's siting of energy facilities and other regulatory administrative processes, saving time and costs associated with these requirements.

Statutory authority for adoption: RCW 80.50.040

Statute being implemented: Chapter 80.50 RCW

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, CITATION:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

CODE REVISER USE ONLY

DATE
April 13, 2007

NAME (type or print)
Allen J. Fiksdal

SIGNATURE
/S/

TITLE
EFSEC Manager

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

EFSEC has determined that RCW 80.50.110 provides the basis for the proposed changes to Chapter 463-28 WAC and these proposed changes to this chapter will streamline EFSEC's procedure where a project is inconsistent with local land use plans and zoning ordinances. The proposed changes to Chapters 47, and 66 WAC will streamline EFSEC's regulatory process and will provide savings in time and costs to applicants and certificate holders by eliminating or providing options to EFSEC so it can conduct its business more efficiently.

Name of proponent: (person or organization)

Energy Facility Site Evaluation Council

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Allen Fiksdal	925 Plum Street SE, Olympia, WA 98504	(360) 956-2152
Implementation..... Same		()
Enforcement..... Same		()

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

Over the past 30 years, the businesses that have come to EFSEC for the siting and operation of large energy facilities that the Energy Facility Site Evaluation Council's rules have all had more 50 employees. EFSEC currently regulates or is conducting siting reviews for the following companies: Energy Northwest (1,054 employees), Invenergy (130) employees, Horizon Energy (102) employees, Puget Sound Energy (2,400 employees), BP (700 local and 100,000 world-wide employees), and Suez Energy (x,xxx) employees. EFSEC does not expect small business to enter into this industry or be impacted by its rules.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

These are not significant legislative rules as defined in RCW 34.05.328 because 1) EFSEC is not one of the listed agencies and 2) these are procedural and interpretative rules as defined by RCW 34.05.328(5)(c)(i) and (ii), not "significant legislative rules" under (iii). In addition EFSEC believes that the proposed changes to these rules will expedite its regulatory process by eliminating duplicative land use consistency reviews, allow EFSEC to choose more cost effective SEPA document preparation, and allow EFSEC to make all decisions regarding amendments to Site Certification Agreements. These proposed rule changes will reduce the time and costs to applicants during an application review and to certificate holders during amendments to Site Certification Agreements. It will also reduce EFSEC's costs which are charged directly to the applicant's and certificate holders because of the elimination and streamlining of administrative procedures and process.