

Chapter 463-06 WAC

~~((GENERAL ORGANIZATION--))~~ AGENCY OPERATIONS AND PUBLIC RECORDS

WAC

463-06-010	((Organization of this title.)) <u>Purpose.</u>
463-06-020	Description of organization.
463-06-030	Council office--Business hours.
463-06-040	Monthly meetings.
463-06-050	General method by which operations are conducted.
463-06-060	<u>How to obtain</u> ((P)) public records ((available)).
463-06-070	Public records officer.
463-06-080	Contents of requests for public records.
463-06-090	Staff assistance.
463-06-100	Record of requests maintained.
463-06-110	<u>Copying and</u> ((F)) fees ((for copying-))
463-06-120	((Determination of exempt status)) <u>Disclosure procedure.</u>
((463-06-130))	((Deletion of identifying details-))
((463-06-140))	((Written denials-))
463-06-1 ((5)) <u>30</u>	Review of denials.
((463-06-160))	((Time for completion of review-))
463-06-1 ((7)) <u>40</u>	Records index.

AMENDATORY SECTION (Amending WAC 463-06-010, filed xx/xx/xxxx, effective xx/xx/xxxx.)

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.))~~ **Purpose.** The purpose of this chapter is to describe the council and set out general information on agency operations and implementation of the public records provisions of chapter 42.17 RCW.

~~((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 statewide 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). 98-01-07((9))§, § 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 council is a state agency authorized by chapter 80.50 RCW.
2. 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.
3. 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.
 - a. The chair has a vote on all matters before the council and has an office at the ~~((department of community, trade, and economic development))~~council's office.
 - b. The chair or a designee executes all official documents, contracts and other materials on behalf of the council.
 - c. The chair or any member of the council may perform such duties as are specifically authorized and directed by the council, not in conflict with RCW 80.50.040.
 - d. Pursuant to RCW 80.50.030, the chair may designate a member of the council to serve as acting chair shall remain entitled to vote on any proposed council action and shall continue to fulfill his or her responsibilities to the agency which he or she represents.
4. 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. The council's mailing address is PO Box 43172, Olympia, WA 98504-3172.

[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.]

~~**WAC 463-06-040 Monthly meetings.** ((Regular meetings of t))The council ((are held))meets on the second Monday of each month. ((Regular meetings of t))The council's executive committee ((are~~

~~held))meets on the first and third Mondays of each month.)) ((Regular council and executive committee meetings may be canceled or rescheduled at the discretion of the chair or by the noticing procedure provided for special meetings pursuant to WAC 463-18-050.))~~

[Statutory Authority: RCW 80.50.040(1). 92-09-013, §463-06-040, filed 4/2/92, effective 5/3/92; 84-07-042 (Order 84-1), §463-06-040, filed 3/21/84; Order 103, §463-06-040, filed 11/4/76.]

WAC 463-06-050 General method by which operations are conducted.

1. In general, the council reaches major policy and operational decisions through formal council action at ~~((regular and special))~~ meetings held pursuant to the Open Public Meetings Act, the State Administrative Procedures Act, or other applicable laws.
2. In some circumstances, the chair may perform duties which are specifically authorized by the council.
3. Day-to-day administration is handled by the council manager and staff.
4. The council manager is responsible for implementing the decisions of the council and for directing the staff that supports the council.
5. The council staff shall assist applicants in identifying issues presented by the application, review all information submitted, and recommend resolutions to issues in dispute that would allow site approval and may make recommendations to the council.
6. The council staff are not parties to adjudicative proceedings conducted under Chapter 34.05 RCW.

[Statutory Authority: RCW 80.50.040(1). 92-09-013, §463-06-050, filed 4/2/92, effective 5/3/92; Order 103, §463-06-050, filed 11/4/76.]

WAC 463-06-060 How to obtain ((P))public records ((available)).

1. ~~((All-p))~~Public records of the council are available for public inspection and copying at the council office, during regular business hours, in accordance with ((pursuant to)) chapter 42.17 RCW and these rules, except as otherwise provided by ((RCW 42.17.310 or any superseding))law.
2. Public records are available for inspection and copying during the business hours of the council's office.
3. The public may request public records through the following mechanisms.
 - a. Mail. Requests by mail shall be addressed to the council's mailing address: The Energy Facility Site Evaluation Council, P.O. Box 43172, Olympia, WA 98504-3172. The front of the envelope shall conspicuously state: "Public Records Requests."
 - b. E-mail. As of the date these rules are promulgated, the council's email address is: efsec@ep.cted.wa.gov. This E-mail address may change without notice. The subject line of E-mail requests shall state: "Public Records Request"
 - c. In person. In-person requests shall be made at the council's office, 925 Plum Street S.E., Olympia, Washington, or as such office may subsequently be relocated, during regular business hours.
 - d. Fax. Faxed requests shall be accompanied by a cover sheet that conspicuously states: "Public Records Request."

[Order 103, §463-06-060, filed 11/4/76. Formerly WAC 463-20-040.]

WAC 463-06-070 Public records officer. The council's public records officer is the council manager, or designee, who is responsible for implementation of these and other applicable regulations regarding public records. ~~((Correspondence regarding public records is to be addressed to the public records officer.))~~

[Statutory Authority: RCW 80.50.040(1). 92-09-013, §463-06-070, filed 4/2/92, effective 5/3/92; Order

WAC 463-06-080 Contents of requests for public records. Chapter 42.17 RCW requires the council to prevent invasions of privacy, protect public records from damage or disorganization, prevent excessive interference with its essential functions, and prevent unreasonable disruptions of operations. Accordingly, the public records may inspect and copy public records upon compliance with the following procedures:

1. A member of the public who seeks a public record shall make a written request. The purpose of requiring written requests is to assist the council in tracking, managing, and responding to requests in a timely and orderly fashion.
2. No particular form of writing is required so long as the request complies with WAC 463-06-060 and contains the following information:
 - a. Name of the person requesting the records; and mailing address, and telephone number of the requesting party;
 - b. The date on which the written request is made (was prepared or submitted); and
 - c. Identification of the record requested with sufficient particularity that the council can identify the record and make it available. Such identifying information should, if possible, include the title, subject matter, and date of the record.
 - d. A signed statement that the records will not be used for commercial purposes if a list of individuals is being requested, or for any use prohibited by law.
 - e. (The nature of the request (to the extent that this may expedite compliance); and) A prominent statement that the request is being made pursuant to chapter 42.17 RCW and these regulations.
3. (If the matter requested is indexed, an appropriate index reference; or) To facilitate processing the request, the requesting party should also include:
 - a. Either a FAX number or an E-mail address or both.
 - b. A reference to the record as it is described in the current public record index maintained by the council.

~~((5) If the requested matter is not identifiable by reference to the current index, an adequate description of the record requested; and~~

~~(3) A prominent statement that the request is being made pursuant to chapter 42.17 RCW and these regulations.)~~

[Order 103, §463-06-080, filed 11/4/76. Formerly WAC 463-20-070.]

WAC 463-06-090 Staff assistance. ~~((It is the obligation of the staff to assist requestors in identifying the public record requested. Staff members who are dealing with requests will make a sincere effort to respond to each initial request within two working days of first receipt.))~~The council staff shall provide the fullest assistance to help persons requesting records to identify the records they seek. The staff may ask the requesting party to clarify what records are being sought.

[Order 103, §463-06-090, filed 11/4/76.]

WAC 463-06-100 Record of requests maintained. A record of requests for public records shall be maintained at the council office which shall reflect the date received and whether or not the request was granted, in addition to other information deemed relevant by the council.

[Order 103, §463-06-100, filed 11/4/76.]

WAC 463-06-110 Copying and fees (for copying). ~~((No fees are charged for inspection of public records. Requestors will be charged a fee not to exceed twenty five cents per page of copy for~~

~~use of the council's copy equipment in cases where no significant staff time is taken up with the request. In cases where significant staff time is taken up with the request, copying costs shall include the cost of said staff time. Charges for costs of providing records shall be submitted and paid prior to delivery of documents; provided that this advance payment requirement shall not be required of other government agencies or parties or interveners in proceedings before this council.))~~

1. Copying. The council shall make copies on the council's copy equipment when doing so will not unreasonably disrupt the council's operations or cause excessive interference with other essential functions.
2. Fees.
 - a. The council shall not impose a fee for locating documents, for making them available, or for inspection of records by the public.
 - b. The council shall charge a 15 cents per page fee for all copies of public records provided.
 - c. The council shall not provide copies unless associated fees have been paid in full prior to delivery of documents; provided that this advance payment requirement shall not apply to other government agencies or tribes or to parties or intervenors in proceedings before the council.

[Order 103, §463-06-110, filed 11/4/76. Formerly WAC 463-20-080.]

WAC 463-06-120 ((~~Determination of exempt status~~))Disclosure Procedure.

~~((Determination whether a requested record is exempt under the provisions of RCW 42.17.310 will be made in each instance.))~~

1. In accordance with RCW 42.17.320, within five business days of receiving a public records request, the council shall respond by:
 - a. providing the records,
 - b. acknowledging the council has received the request and providing a reasonable estimate of the time the council will require to respond, or
 - c. denying the record request, as set out in subparagraph(4) below.
2. The council shall review the requested public records prior to disclosure.
3. If the records do not contain materials exempt from public disclosure, the council shall disclose the records.
4. If the records contain materials exempt from public disclosure, the council shall deny disclosure of the exempt materials and disclose any remaining, nonexempt materials. At the time of denial, the council shall clearly specify in writing the reasons for denial, including a statement of the specific exemptions or reason for denial of disclosure.

[Order 103, §463-06-120, filed 11/4/76. Formerly WAC 463-20-090 (part).]

~~((**WAC 463-06-130 Deletion of identifying details.** Identifying details will be deleted by the council in cases where disclosure of such details would be an invasion of privacy under the laws of the state of Washington. Written justification by the council for deletions will always accompany furnished records where deletions have been made.~~

[Order 103, § 463-06-130, filed 11/4/76. Formerly WAC 463-20-090 (part).]

~~———— **WAC 463-06-140 Written denials.** All denials of requests are by written statement specifying the reasons for denial, including, where appropriate, a reference to the specific exemption and a brief explanation as to how the exemption applies to the record withheld.~~

[Order 103, § 463-06-140, filed 11/4/76. Formerly WAC 463-20-090 (part).]]

WAC 463-06-1((5))30 Review of denials. ~~((Any person is entitled to review of a public record request denial if written request for review is promptly made. The request should specifically refer to the written statement constituting the denial. Any such written request is to be promptly referred to the council manager who shall either affirm or reverse the denial. The council manager may request a special meeting of the council to review the denial if such action is requested in writing and is otherwise warranted.))~~For the purpose of judicial review, final agency action is deemed to have occurred at the end of the second business day after the requesting party received notification of a denial of inspection.¹

[Statutory Authority: RCW 80.50.040(1). 92-09-013, §463-06-150, filed 4/2/92, effective 5/3/92; Order 103, § 463-06-150, filed 11/4/76. Formerly WAC 463-20-100 (part).]

~~((WAC 463-06-160 Time for completion of review. When a written request for review of a denied public record request is made, a final decision will be made and written response will be given to the requestor within two business days. If the written request for review is submitted at the council office substantially simultaneous with initial denial, then review shall be completed within two business days thereafter. If the initial request and denial are made through the mail, then review shall be completed within two business days after receipt of the written request for review. The review period cited above may be extended only as necessary and for good cause. Where a request for council review at a regular or special meeting is granted, review shall be complete on council action.))~~

[Order 103, § 463-06-160, filed 11/4/76. Formerly WAC 463-20-100 (part).]]

WAC 463-06-1((7))40 Records index.

1. The council shall maintain((s)) and make available for public inspection an index of those classes of records described in RCW 42.17.260. ~~((which))~~The index is available for public inspection and copying.
2. Form and content. The index shall be maintained in electronic form with copies available on paper. The index shall contain topic headings.
3. Location and availability. The index shall be available to the public under the same rules and on the same conditions as are applied to other public records.
4. Schedule for revisions and updates. The council shall revise and update the index annually.

[Order 103, §463-06-170, filed 11/4/76. Formerly WAC 463-20-111.]

¹ [Is it our intent to eliminate agency review of denial?](#)
WAC (1/12/04 1:29 PM) [6]