

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-06-010 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)) 42.56 RCW.

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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 directors, administrators, or their designees 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 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 council's office.

(b) Pursuant to RCW 80.50.030, the chair may designate a member of the council to serve as acting chair. The acting chair shall remain entitled to vote on any proposed council action and shall continue to fulfill ((his or her)) their responsibilities under RCW 80.50.030 (3) through (5).

(c) The chair or a designee executes all official documents, contracts, and other materials on behalf of the council.

(d) 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.

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

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WAC 463-06-030 Council office—Business hours. The council office is currently located at ((925 Plum Street S.E., Olympia)) 621 Woodland Square Loop S.E., Lacey, 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 P.O. Box 43172, Olympia, WA ((98504)) 98503-3172.

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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 meetings held pursuant to the Open Public Meetings Act (chapter 42.30 RCW), the state Administrative Procedure Act (chapter 34.05 RCW), 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.~~) The chair appoints a director to oversee the operations of the council and carry out the duties of council as delegated by the chair.

(4) The council (~~manager is responsible for implementing the decisions of the council and for directing the staff that supports~~) director employs and has supervisory authority over such administrative and professional personnel as may be necessary to perform the administrative work of 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.

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WAC 463-06-060 How to obtain public records. (1) All public records of the council are available for public inspection and copying at the council office, during regular business hours, in accordance with chapter (~~42.17~~) 42.56 RCW and these rules, except as otherwise provided by law.

(2) 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~~) 98503-3172. The front of the envelope shall conspicuously state: "Public Records Request."

(b) Email. (~~As of the date these rules are promulgated,~~) The council's email address for public records requests is: (~~efsec@ep.cted.wa.gov~~) records@efsec.wa.gov. This email address may change without notice. The subject line of email requests shall state: "Public Records Request." Requesting records via email is the council's preferred method for tracking and efficiency purposes.

(c) In person. In-person requests shall be made at the council's office, (~~925 Plum Street S.E., Olympia~~) 621 Woodland Square Loop, S.E., Lacey, 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."

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

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WAC 463-06-080 Contents of requests for public records. Chapter (~~(42.17)~~) 42.56 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 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 the request 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 (~~(, mailing address, and telephone number)~~) and contact information of the requesting party;

(b) The date on which the written request is made;

(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; and

(e) A prominent statement that the request is being made pursuant to chapter (~~(42.17)~~) 42.56 RCW and these regulations.

(3) To facilitate processing the request, the requesting party should also include:

(a) (~~(Either a fax number or)~~) Contact information, such as an email address (or both).

(b) A reference to the record as it is described in the current public record index maintained by the council.

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WAC 463-06-110 Copying and fees. (~~((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. If it is determined that making copies will disrupt the council's operations, an alternative schedule will be developed, or other arrangements for copying will be made.~~

~~(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 may charge up to fifteen cents per page fee for copies of public records provided.~~

~~(c) The council, at its option, shall not provide copies unless the 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.) The council will charge to provide copies of public records as provided in this section.~~

(1) **Adoption of statutory copying charges.** The council has not calculated the actual costs for copying its records because to do so would be unduly burdensome for the following reasons:

(a) The council has insufficient resources to conduct a comprehensive study to determine the actual costs of copying its records;

(b) To conduct a study of the council's actual copying costs would interfere with other essential agency functions; and

(c) The legislature has established reasonable fees and costs in RCW 42.56.120 after the public and requestors have commented on, and been informed of, such fees and costs.

To timely implement a fee schedule consistent with the Public Records Act, it is more cost-efficient and expeditious and in the public interest for the council to adopt the legislature's approved fees and costs for most of the council's records, as authorized in RCW 42.56.120 and as published in the council's fee schedule and available on the council's website at <https://efsec.wa.gov>.

(2) **Fee schedule.** Persons may obtain the schedule of the council's copying charges by contacting the council's records office at records@efsec.wa.gov. The council does not charge sales tax on copies it makes at its own facilities.

(3) **Cost estimates.** Upon request, the council will provide a requestor with a summary of the applicable charges before the council makes copies of the requested records. The requestor may revise the request to reduce the requested number of copies and correspondingly reduce the copying charges.

(4) **Deposits and prepayment.** Before beginning to make copies, the public records officer may require a requestor to pay a deposit of up to 10 percent of the estimated costs of copying all the requested records. The public records officer may also require the requestor to pay the remainder of the copying costs before providing all the records, or to pay the costs of copying an installment before providing that installment.

(5) **Waiver or other fee arrangements.** The council may waive copying charges. The council also may enter into a contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the charges or in response to voluminous or frequently occurring requests.

(6) **Mailing and delivery costs.** The council may charge the actual costs it incurs to mail or use a commercial carrier to deliver copies of the requested public records, including the cost of any digital storage medium or device on which the council copies the records (such

as a disc or flash drive), the shipping container or envelope, and the postage or delivery charge.

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WAC 463-06-120 Disclosure procedure. (1) In accordance with RCW ((42.17.320)) 42.56.520, within five business days of receiving a public records request, the council shall respond by:

(a) Providing the records;

(b) Providing an internet address and link on the council's website to the specific records requested, except that if the requestor notifies the council that they cannot access the records through the internet, then the council must provide copies of the record or allow the requestor to view copies using an agency computer;

(c) Acknowledging the council has received the request and providing a reasonable estimate of the time the council will require to respond; ((or

~~(e))~~ (d) Requesting clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. If the requestor does not respond to the council's request for clarification, the public records officer or designee need not respond to the public records request and may consider the request closed; or

(e) Denying the record request, as set out in subsection (4) of this section.

(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.

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WAC 463-06-170 Records index. The council shall maintain and make available for public inspection an index of those classes of records described in RCW ((42.17.260)) 42.56.070. The index is available for public inspection and copying.

(1) Form and content. The index shall be maintained in electronic form with copies available on paper. The index shall contain topic headings.

(2) 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.

(3) Schedule for revisions and updates. The council shall revise and update the index annually.