



STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

PO Box 43172 • Olympia, Washington 98504-3172

Staff Proposed Rulemaking

WAC 463-06 Agency operations & public records.
WAC 463-10 Definitions.
WAC 463-14 Policy and interpretation.
WAC 463-18 Council meetings and proceedings.
WAC 463-22 Potential site studies.
WAC 463-26 Public informational meeting & land use hearing.
WAC 463-28 State preemption.
WAC 463-30 Adjudicative proceedings.
WAC 463-34 Petitions for rule making & declaratory orders.
WAC 463-43 Expedited processing.
WAC 463-47 SEPA rules.
WAC 463-58 Charges for independent consultant study, regular & expedited application processing, electrical transmission preapplications, determining compliance potential site study.
WAC 463-60 Applications for site certification.

WAC 463-61 Electrical transmission facilities.
WAC 463-62 Construction & operation standards for energy facilities.
WAC 463-64 Issuance of a site certification agreement.
WAC 463-68 Site certification agreement—Start of construction, expiration, and reporting.
WAC 463-70 Certification compliance and monitoring & enforcement.
WAC 463-72 Site restoration & preservation.
WAC 463-74 Dangerous wastes.
WAC 463-76 Regulations for compliance with NPDES permit program.
WAC 463-78 General & operating permit regulations for air pollution sources.
WAC 463-80 Carbon dioxide mitigation program for thermal electric generating facilities.
WAC 463-85 Greenhouse gases emissions performance standard & sequestration plans & programs for baseload generating facilities.

See all amended chapters at <https://www.efsec.wa.gov/council-information/rulemaking> under the Current Rulemaking tab.

Rulemaking Activities through April 16, 2025

- July 23, 2024 – Initial Notice of Expedited Rule Making (CR-105) Filed
- August-September 2024 – Public Comment Period
- September 12, 2024 – Formal objection filed by Benton County
- October 2, 2024 – Notice of Proposed Rule Making (CR-102) Filed
- October-November 2024 – Public Comment Period
- November 7, 2024 – Virtual Public Hearing

Background

These rule changes introduce **non-substantive amendments only**.

EFSEC became an independent agency on June 30, 2022, when the Act modernizing the energy facility site evaluation council to meet the state’s clean energy goals (E2SHB 1812) went into effect.

The 2022 law made changes to Chapter 80.50 RCW (the Energy Facility—Site Location Act), necessitating updates to a number of references in the EFSEC WAC (Chapter 463) to align provisions and terms with the revised law.

Examples include: (1) the position of “director” was created to lead staff and replaced the term “council manager”; and, (2) a new paragraph was inserted into RCW 80.50.090 Public hearings—Opportunity for public comment, such that details on holding “a public hearing, conducted as an adjudicative proceeding under chapter 34.05 RCW” was changed from being subsection 3 to being subsection 4.

Similarly, when the Environmental Health Law Reorganization Act (SHB 2246) went into effect in 2020, many legal references in the EFSEC WAC (Chapter 463) needed to be updated to reflect references to the law as revised.

Additionally, a number of the chapters within Title 463 WAC had not been updated in many years to reflect the agency’s correct address and contact information; the changes and updates to the Public Records Act (RCW 42.56) since 2004; updates to the current technological practices (e.g., introducing email and website to communication processes); or, updates to the Office of the Code Reviser’s style guide.

All proposed changes either:

- 1) only affect internal agency operations not subject to violation by a person;
- 2) adopt or incorporate Washington state statutes or rules of other state agencies;
- 3) correct typographical errors, make address or name changes, or clarify language without changing its effect; or,
- 4) are content explicitly or specifically dictated by statute.

Stakeholder Feedback

The one oral comment and five written comments that EFSEC received as part of this three-month process of soliciting public input, for the most part, related to objections to pursuing rule changes through expedited rulemaking, which was perceived as not sufficiently seeking meaningful public input. One commentator also believed, without specifying any proposed rule change, that the public records process was being changed to make transparency more difficult; and another comment opposed any rule changes that would reduce public participation in EFSEC’s application process.

EFSEC response: As per the provisions in the Administrative Procedures Act ([Chapter 34.05 RCW](#)), EFSEC originally tried to adopt these basic housekeeping changes to the rules using an expedited process allowed by the APA, lasting 45 days from publication in the Washington State Register. Once EFSEC received an objection to the expedited process, it returned to adoption of the rules via the normal process provided in the APA. The public had a full three months to review and comment on the rule changes, which were posted on its website from August 5 until November 7, 2024. The public was also informed twice through email and through publications in the Washington State Register of the proposed rules changes beginning on August 5, 2024. As a result, the public had 95 days to review and submit their comments. The public also had the opportunity to attend the public hearing held on November 7, 2024.

The only changes made to the public records process were updates to the EFSEC rules to bring them into conformity with the requirements of the current Public Records Act (RCW 42.56). No changes to any of the EFSEC rules were proposed that would reduce the ability of the public to participate in the EFSEC application process.

Staff Recommendation

Staff recommends that the Council authorize filing of the final rulemaking order (CR-103P) to make the rule changes permanent 31 days after date of filing.