



### Inside the Legislature

- \* Find Your Legislator
- \* Visiting the Legislature
- \* Agendas, Schedules and Calendars
- \* Bill Information
- \* Laws and Agency Rules
- \* Legislative Committees
- \* Legislative Agencies
- \* Legislative Information Center
- \* E-mail Notifications
- \* Civic Education
- \* History of the State Legislature

### Outside the Legislature

- \* Congress - the Other Washington
- \* TWW
- \* Washington Courts
- \* OFM Fiscal Note Website



[WACs](#) > [Title 463](#) > [Chapter 463-06](#)

## Chapter 463-06 WAC AGENCY OPERATIONS AND PUBLIC RECORDS

Last Update: 10/11/04

[Chapter Listing](#)

### WAC Sections

<a href="#">463-06-010</a>	Purpose.
<a href="#">463-06-020</a>	Description of organization.
<a href="#">463-06-030</a>	Council office—Business hours.
<a href="#">463-06-050</a>	General method by which operations are conducted.
<a href="#">463-06-060</a>	How to obtain public records.
<a href="#">463-06-070</a>	Public records officer.
<a href="#">463-06-080</a>	Contents of requests for public records.
<a href="#">463-06-090</a>	Staff assistance.
<a href="#">463-06-100</a>	Record of requests maintained.
<a href="#">463-06-110</a>	Copying and fees.
<a href="#">463-06-120</a>	Disclosure procedure.
<a href="#">463-06-150</a>	Review of denials.
<a href="#">463-06-170</a>	Records index.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

463-06-040	Monthly meetings. [Statutory Authority: RCW <a href="#">80.50.040</a> (1). WSR 92-09-013, § 463-06-040, filed 4/2/92, effective 5/3/92; WSR 84-07-042 (Order 84-1), § 463-06-040, filed 3/21/84; Order 103, § 463-06-040, filed 11/4/76.] Repealed by WSR 04-08-014, filed 3/26/04, effective 4/26/04. Statutory Authority: RCW <a href="#">80.50.040</a> (1).
463-06-130	Deletion of identifying details. [Order 103, § 463-06-130, filed 11/4/76. Formerly WAC 463-20-090 (part).] Repealed by WSR 04-21-013, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW <a href="#">80.50.040</a> (1) and (12).
463-06-140	Written denials. [Order 103, § 463-06-140, filed 11/4/76. Formerly WAC 463-20-090 (part).] Repealed by WSR 04-21-013, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW <a href="#">80.50.040</a> (1) and (12).
463-06-160	Time for completion of review. [Order 103, § 463-06-160, filed 11/4/76. Formerly WAC 463-20-100 (part).] Repealed by WSR 04-21-013, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW <a href="#">80.50.040</a> (1) and (12).

### 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](#) RCW.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-010, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW [80.50.040](#)(1). WSR 98-01-079, § 463-06-010, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW [80.50.040](#). WSR 91-03-090, § 463-06-010, filed 1/18/91, effective 2/18/91; Order 103, § 463-06-010, filed 11/4/76.]

### 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 designee 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 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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-020, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW [80.50.040](#)(1) and 34.05.220 [(1)](b). WSR 98-01-078, § 463-06-020, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW [80.50.040](#)(1). WSR 92-09-013, § 463-06-020, filed 4/2/92, effective 5/3/92; WSR 78-09-077 (Order 78-4), § 463-06-020, filed 8/28/78; Order 103, § 463-06-020, filed 11/4/76.]

### 463-06-030

#### Council office—Business hours.

The council office is currently located at 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 P.O. Box 43172, Olympia, WA 98504-3172.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-030, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW [80.50.040](#)(1) and 34.05.220 [(1)](b). WSR 98-01-078, § 463-06-030, filed 12/12/97, effective 1/12/98. Statutory Authority: RCW [80.50.040](#)(1). WSR 92-09-013, § 463-06-030, filed 4/2/92, effective 5/3/92; WSR 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.]

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#### **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, the state Administrative Procedure 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) and (12). WSR 04-21-013, § 463-06-050, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW [80.50.040](#)(1). WSR 92-09-013, § 463-06-050, filed 4/2/92, effective 5/3/92; Order 103, § 463-06-050, filed 11/4/76.]

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#### **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](#) 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 98504-3172. The front of the envelope shall conspicuously state: "Public Records Request."

(b) E-mail. As of the date these rules are promulgated, the council's e-mail address is: [efsec@ep.cted.wa.gov](mailto: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."

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-060, filed 10/11/04, effective 11/11/04; Order 103, § 463-06-060, filed 11/4/76. Formerly WAC 463-20-040.]

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#### **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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-070, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW [80.50.040](#)(1). WSR 92-09-013, § 463-06-070, filed 4/2/92, effective 5/3/92; Order 103, § 463-06-070, filed 11/4/76. Formerly WAC 463-20-050.]

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#### **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 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 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](#) RCW and these regulations.
- (3) 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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-080, filed 10/11/04, effective 11/11/04; Order 103, § 463-06-080, filed 11/4/76. Formerly WAC 463-20-070.]

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#### **463-06-090**

##### **Staff assistance.**

The council staff shall provide 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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-090, filed 10/11/04, effective 11/11/04; Order 103, § 463-06-090, filed 11/4/76.]

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#### **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.]

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#### **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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-110, filed 10/11/04, effective 11/11/04; Order 103, § 463-06-110, filed 11/4/76. Formerly WAC 463-20-080.]

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#### **463-06-120**

##### **Disclosure procedure.**

(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 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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-120, filed 10/11/04, effective 11/11/04; Order 103, § 463-06-120, filed 11/4/76. Formerly WAC 463-20-090 (part).]

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#### **463-06-150**

##### **Review of denials.**

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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-150, filed 10/11/04, effective 11/11/04.  
Statutory Authority: RCW [80.50.040](#)(1). WSR 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).]

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**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](#). 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.

[Statutory Authority: RCW [80.50.040](#) (1) and (12). WSR 04-21-013, § 463-06-170, filed 10/11/04, effective 11/11/04; Order 103, § 463-06-170, filed 11/4/76. Formerly WAC 463-20-111.]