

WAC 463-66-100 Transfer of a site certification agreement. No site certification agreement, any portion of a site certification agreement, nor any legal or equitable interest in such an agreement issued under this chapter shall be transferred, assigned, or in any manner disposed of (including abandonment), either voluntarily or involuntarily, directly or indirectly, through transfer of control of the certification agreement or the site certification agreement owner or project sponsor without express council approval of such action. In the event a site certification agreement is to be acquired via a merger, leveraged buy-out, or other change in corporate or partnership ownership, the successor in interest must file a formal petition under the terms of this section to continue operation or other activities at the certificated site.

(1) A certification holder seeking to transfer or otherwise dispose of a site certification agreement must file a formal application with the council including information about the new owner required by WAC 463-60-015 and 463-60-075 that demonstrate the transferee's organizational, financial, managerial, and technical capability to comply with the terms and conditions of the original site certification agreement including council approved plans for termination of the plant and site restoration. The council may place conditions on the transfer of the certification agreement including provisions that reserve liability for the site in the original certification holder.

(2) If the certification holder is seeking an alternative disposition of a certificated site, the certification holder must petition the council for an amendment to its site certification agreement pursuant to the provisions of this chapter and gain council approval of its alternative disposition plan. In submitting a request for an alternative disposition of a certificated site, the certification holder must describe the operational and environmental effects of the alternative use of the site on the certified facility. If the proposed alternative use of the site is inconsistent with the terms and conditions of the original site certification agreement the council may reject the application for alternative use of the site.

(3) The council shall require any person who submits an application to acquire a site certification agreement under provisions of this section to file a written consent from the current certification holder, or a certified copy of an order or judgment of a court of competent jurisdiction, attesting to the person's right, subject to the provisions of chapter 80.50 RCW et seq. and the rules of this chapter, to possession of the energy facility involved.

(4) After mailing a notice of the pending application for transfer of the site certification agreement to all persons on its mailing list, the council shall hold an informational hearing on the application. Following the hearing the council may approve an application for transfer of the site certification agreement if the council determines that:

(a) The applicant satisfies the provisions of WAC 463-60-015 and 463-60-075;

(b) The applicant is entitled to possession of the energy facility described in the certification agreement; and

(c) The applicant agrees to abide by all of the terms and conditions of the site certification agreement to be transferred and has demonstrated it has the organizational, financial, managerial, and technical capability and is willing and able to comply with the terms and conditions of the certification agreement being transferred.

(5) The council shall issue a formal order either approving or denying the application for transfer of the site certification agreement. If the council denies the request, it shall state the reasons for its denial.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, amended and recodified as § 463-66-100, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040. WSR 92-23-012, § 463-36-100, filed 11/6/92, effective 12/7/92.]