



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Energy Facility Site Evaluation Council

- Permanent Rule
 Emergency Rule

(1) Date of adoption: September 28, 1992

(2) Purpose: These proposals would: (A) Set the standards for the transfer of an energy facility site certification transfer and (B) Reorganize the procedures for applying for an energy facility site certification.

(3) Citation of existing rules affected by this order:

- Repealed: (Please see attachment.)
Amended: WAC 463-42-010, -012, -435, -525, -535, -625 and -655
Suspended:

(4) Authority for adoption:

- Statute: RCW 80.50.040
Other Authority:

(5.1) **PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 92-17-055 on August 17, 1992 (date).

Describe any changes other than editing from proposed to adopted version:

In WAC 463-36-100(3) the "may" in the first sentence was changed to "shall" and the second "or" in the fourth line was changed to "of." In WAC 463-42-352(2) "fire" was added to "explosion."

(5.2) **EMERGENCY RULE ONLY**

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If yes, explain:

(6) Effective date of rule:

- | | |
|--|--|
| Permanent Rules | Emergency Rules |
| <input checked="" type="checkbox"/> 31 days after filing | <input type="checkbox"/> Immediately |
| <input type="checkbox"/> Other (specify) _____ * | <input type="checkbox"/> Later (specify) _____ |

*[If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required]

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 06 1992

TIME 4:42
WSR 92-23-012

Warren A. Bishop

Warren A. Bishop

DATE Sept. 28, 1992

Chair, EFSEC

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 463-42-305 Physical environment--Contour maps.
- WAC 463-42-315 Physical environment--Earth removal.
- WAC 463-42-325 Physical environment--Landscape restoration.
- WAC 463-42-335 Physical environment--Environmental safeguards--Geologic and hydrologic survey.
- WAC 463-42-345 Physical environment--Air pollution control.
- WAC 463-42-355 Physical environment--Air pollution impact.
- WAC 463-42-365 Physical environment--Dust control.
- WAC 463-42-375 Physical environment--Odor control.
- WAC 463-42-395 Physical environment--Water source and usage.
- WAC 463-42-405 Physical environment--Compatibility with water quality standards.
- WAC 463-42-415 Physical environment--Hydrographic study of waters.
- WAC 463-42-425 Physical environment--Ground-water activity.
- WAC 463-42-445 Physical environment--Inventory of potentially affected vegetation, wetlands, animal life, and aquatic life described.
- WAC 463-42-455 Physical environment--Impact of construction, operation, abandonment, termination, or cessation of operations on vegetation, wetlands, animal life, and aquatic life.
- WAC 463-42-465 Physical environment--Description of measures taken to protect vegetation, wetlands, animal life, and aquatic life.
- WAC 463-42-475 Physical environment--Noise and glare.
- WAC 463-42-485 Physical environment--Local land use plans and zoning ordinances.
- WAC 463-42-495 Physical environment--Multipurpose use of transmission routes.
- WAC 463-42-505 Physical environment--Safety standards compliance.
- WAC 463-42-515 Physical environment--Safety where public access allowed.
- WAC 463-42-545 Human environment--Access.
- WAC 463-42-555 Human environment--Transportation impact.
- WAC 463-42-565 Human environment--Transportation facility construction.
- WAC 463-42-575 Human environment--Transportation of fuels and waste products.
- WAC 463-42-585 Human environment--Energy consumption.
- WAC 463-42-595 Human environment--Solid wastes.
- WAC 463-42-605 Human environment--Radiation levels.
- WAC 463-42-615 Human environment--Aesthetics.
- WAC 463-42-635 Human environment--Historical, archaeological, and recreational site preservation/creation.

NEW SECTION

WAC 463-36-100 Transfer of a site certification agreement.

(1) 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.

(2) (a) 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 463-42-065 and 463-42-075 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.

(b) 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 463-42-065 and 463-42-075;

(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.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-010 Purpose and scope. This chapter sets forth guidelines for preparation of applications for energy facility site certification pursuant to chapter 80.50 RCW.

The application shall provide the council with information regarding the applicant, the proposed project design and features, the natural environment, the built environment, and plans for project termination and site restoration. This information shall be in such detail as determined by the council to enable the council to go forward with its application review.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-012 General--Organization--Index. Except as may be otherwise approved by the council and except as otherwise provided below with respect to applications covering nuclear power plants, the contents of the application shall be organized in the same order as these guidelines.

(1) To aid in the council's review under SEPA and chapter 463-47 WAC, WAC 463-42-302 through 463-42-382 are similar to the elements required in an environmental impact statement.

(2) In the case of an application covering a nuclear power plant, the environmental report prepared for the nuclear regulatory commission may be substituted for the comparable sections of the site certification application, provided that the environmental report is supplemented as necessary to comply with this chapter and that an index is included listing these guidelines in order and identifying where each applicable guideline is addressed.

NEW SECTION

WAC 463-42-302 Natural environment--Earth. The applicant shall provide detailed descriptions of the existing environment, project impacts, and mitigation measures for the following:

(1) Geology - The applicant shall include the results of a comprehensive geologic survey showing conditions at the site, the nature of foundation materials, and potential seismic activities.

(2) Soils - The applicant shall describe all procedures to be utilized to minimize erosion and other adverse consequences during the removal of vegetation, excavation of borrow pits, foundations and trenches, disposal of surplus materials, and construction of earth fills. The location of such activities shall be described and the quantities of material shall be indicated.

(3) Topography - The applicant shall include contour maps showing the original topography and any changes likely to occur as a result of energy facility construction and related activities. Contour maps showing proposed shoreline or channel changes shall also be furnished.

(4) Unique physical features - The applicant shall list any unusual or unique geologic or physical features in the project area or areas potentially affected by the project.

(5) Erosion/enlargement of land area (accretion) - The applicant shall identify any potential for erosion, deposition, or change of any land surface, shoreline, beach, or submarine area due to construction activities, placement of permanent or temporary structures, or changes in drainage resulting from construction or placement of facilities associated with construction or operation of the proposed energy project.

NEW SECTION

WAC 463-42-312 Natural environment--Air. The applicant shall provide detailed descriptions of the affected environment, project impacts, and mitigation measures for the following:

(1) Air quality - The applicant shall identify all pertinent air pollution control standards. The application shall contain adequate data showing air quality and meteorological conditions at the site. Meteorological data shall include, at least, adequate information about wind direction patterns, air stability, wind velocity patterns, precipitation, humidity, and temperature. The applicant shall describe the means to be utilized to assure compliance with applicable local, state, and federal air quality and emission standards.

(2) Odor - The applicant shall describe for the area affected, all odors caused by construction or operation of the facility, and shall describe how these are to be minimized or eliminated.

(3) Climate - The applicant shall describe the extent to which facility operations may cause visible plumes, fogging, misting, icing, or impairment of visibility, and changes in ambient levels caused by all emitted pollutants.

(4) Dust - The applicant shall describe for any area affected, all dust sources created by construction or operation of the facility, and shall describe how these are to be minimized or eliminated.

NEW SECTION

WAC 463-42-322 Natural environment--Water. The applicant shall provide detailed descriptions of the affected natural water environment, project impacts and mitigation measures and shall demonstrate that facility construction and/or operational discharges will be compatible with and meet state water quality

standards. The application shall indicate the source and the amount of water required during construction and operation of the plant and show that it is available for this use and describe all existing water rights, withdrawal authorizations, or restrictions which relate to the proposed source.

(1) Surface water movement/quality/quantity - The application shall set forth all background water quality data pertinent to the site, and hydrographic study data and analysis of the receiving waters within one-half mile of any proposed discharge location with regard to: Bottom configuration; minimum, average, and maximum water depths and velocities; water temperature and salinity profiles; anticipated effluent distribution and dilution, and plume characteristics under all discharge conditions; and other relevant characteristics which could influence the impact of any wastes discharged thereto.

(2) Runoff/absorption - The applicant shall describe how surface water runoff and erosion are to be controlled during construction and operation, how runoff can be reintroduced to the ground for retention to the ground water supply, and to assure compliance with state water quality standards.

(3) Floods - The applicant shall describe potential for flooding, identify the five, fifty, one hundred, and five hundred year flood boundaries, and all protective measures to prevent possible flood damage to the site and facility.

(4) Ground water movement/quantity/quality - The applicant shall include the results of a comprehensive hydrologic survey, describe the ground water conditions on and near the site and any changes in ground water movement, quantity, or quality which might result from project construction or operation.

(5) Public water supplies - The applicant shall provide a detailed description of any public water supplies which may be used or affected by the project during construction or operation of the facility.

NEW SECTION

WAC 463-42-332 Natural environment--Plants and animals. (1) Habitat for and number or diversity of species of plants, fish, or other wildlife - The applicant shall describe all habitat types, vegetation, wetlands, animal life, and aquatic life which might reasonably be affected by construction, operation, or cessation of construction or operation of the energy facility and any associated facilities. Assessment of these factors shall include density and distribution information. The application shall contain a full description of each measure to be taken by the applicant to protect all habitat types, vegetation, wetlands, animal life, and aquatic life from the effects of project construction, operation, abandonment, termination, or cessation of operations.

(2) Unique species - Any endangered species or noteworthy species or habitat shall receive special attention.

(3) Fish or wildlife migration routes - The applicant shall identify all fish or wildlife migration routes which may be

affected by the ene. facility or by any discharge to the environment.

NEW SECTION

WAC 463-42-342 Natural environment--Energy and natural resources. (1) Amount required/rate of use/efficiency - The applicant shall describe the energy and natural resource consumption during both construction and operation of the proposed facilities as rate of use and efficiency that can be achieved during construction and operation.

(2) Source/availability - The applicant shall describe the sources of supply, locations of use, types, amounts, and availability of energy or resources to be used or consumed during construction and operation of the facility.

(3) Nonrenewable resources - The applicant shall describe all nonrenewable resources that will be used, made inaccessible or unusable by construction and operation of the facility.

(4) Conservation and renewable resources - The applicant shall describe conservation measures and/or renewable resources which will or could be used during construction and operation of the facility.

(5) Scenic resources - The applicant shall describe any scenic resources which may be affected by the facility or discharges from the facility.

NEW SECTION

WAC 463-42-352 Built environment--Environmental health. (1) Noise - The applicant shall describe the impact of noise from construction and operation and shall describe the measures to be taken in order to eliminate or lessen this impact.

(2) Risk of fire or explosion - The applicant shall describe any potential for fire or explosion during construction, operation, standby or nonuse, dismantling, or restoration of the facility and what measures will be made to mitigate any risk of fire or explosion.

(3) Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials - The applicant shall describe any potential for release of toxic or hazardous materials to the environment and shall identify plans for complying with the federal Resource Conservation and Recovery Act and the state Dangerous waste regulations (chapter 173-303 WAC). The applicant shall describe the treatment or disposition of all solid or semisolid construction and operation wastes including spent fuel, ash, sludge, and bottoms, and show compliance with applicable state and local solid waste regulations.

(4) Safety standards compliance - The applicant shall identify all federal, state, and local health and safety standards which

would normally be applicable to the construction and operation of a project of this nature and shall describe methods of compliance therewith.

(5) Radiation levels - For facilities which propose to release any radioactive materials, the applicant shall set forth information relating to radioactivity. Such information shall include background radiation levels of appropriate receptor media pertinent to the site. The applicant shall also describe the proposed radioactive waste treatment process, the anticipated release of radionuclides, their expected distribution and retention in the environment, the pathways which may become sources of radiation exposure, and projected resulting radiation doses to human populations. Other sources of radiation which may be associated with the project shall be described in all applications.

NEW SECTION

WAC 463-42-362 Built environment--Land and shoreline use.

(1) The relationship to existing land use plans and to estimated population - As part of the application, the applicant shall furnish copies of adopted land use plans and zoning ordinances, including the latest land use regulation and a survey of present land uses within the following distances of the immediate site area:

(a) In the case of thermal power plants, twenty-five miles radius;

(b) In the case of petroleum refineries ten miles radius;

(c) In the case of petroleum or LNG storage areas or underground natural gas storage, ten miles radius from center of storage area or well heads;

(d) In the case of pipe lines and electrical transmission routes, one mile either side of center line.

(2) Housing - The applicant shall describe potential impact on housing needs, costs, or availability due to influx of workers for construction and/or operation of the facility.

(3) Light and glare - The applicant shall describe the impact of lights and glare from construction and operation and shall describe the measures to be taken in order to eliminate or lessen this impact.

(4) Aesthetics - The applicant shall describe the aesthetic impact of the proposed energy facility and associated facilities and any alteration of surrounding terrain. The presentation will show the location and design of the facilities relative to the physical features of the site in a way that will show how the installation will appear relative to its surroundings. The applicant shall describe the procedures to be utilized to restore or enhance the landscape disturbed during construction (to include temporary roads).

(5) Recreation - The applicant shall list all recreational sites within the area affected by construction and operation of the facility and shall then describe how each will be impacted by construction and operation.

(6) Historic and natural preservation - The applicant shall list all historical and archaeological sites within the area affected by construction and operation of the facility and shall then describe how each will be impacted by construction and operation.

(7) Agricultural crops/animals - The applicant shall identify all agricultural crops and animals which could be affected by construction and/or operation of the facility and any operations, discharges, or wastes which could impact the adjoining agricultural community.

NEW SECTION

WAC 463-42-372 Built environment--Transportation. (1)

Transportation systems - The applicant shall identify all permanent transportation facilities impacted by the construction and operation of the energy facilities, the nature of the impacts and the methods to mitigate impacts. Such impact identification, description, and mitigation shall, at least, take into account:

(a) Expected traffic volumes during construction, based on where the work force is expected to reside;

(b) Access routes for moving heavy loads, construction materials, or equipment;

(c) Expected traffic volumes during normal operation of the facility;

(d) For transmission facilities, anticipated maintenance access; and

(e) Consistency with local comprehensive transportation plans.

(2) Vehicular traffic - The applicant shall describe existing roads, estimate volume, types, and routes of vehicular traffic which will arise from construction and operation of the facility. The applicant shall indicate the applicable standards to be utilized in improving existing roads and in constructing new permanent or temporary roads or access, and shall indicate the final disposition of new roads or access and identify who will maintain them.

(3) Waterborne, rail, and air traffic - The applicant shall describe existing railroads and other transportation facilities and indicate what additional access, if any, will be needed during planned construction and operation. The applicant shall indicate the applicable standards to be utilized in improving existing transportation facilities and in constructing new permanent or temporary access facilities, and shall indicate the final disposition of new access facilities and identify who will maintain them.

(4) Parking - The applicant shall identify existing and any additional parking areas or facilities which will be needed during construction and operation of the energy facility, and plans for maintenance and runoff control from the parking areas or facilities.

(5) Movement/circulation of people or goods - The applicant shall describe any change to the current movement or circulation of people or goods caused by construction or operation of the

facility. The applicant shall indicate consideration of multipurpose utilization of rights of way and describe the measures to be employed to utilize, restore, or rehabilitate disturbed areas. The applicant shall describe the means proposed to ensure safe utilization of those areas under applicant's control on or in which public access will be granted during project construction, operation, abandonment, termination, or when operations cease.

(6) Traffic hazards - The applicant shall identify all hazards to traffic caused by construction or operation of the facility. Except where security restrictions are imposed by the federal government the applicant shall indicate the manner in which fuels and waste products are to be transported to and from the facility, including a designation of the specific routes to be utilized.

NEW SECTION

WAC 463-42-382 Built environment--Public services and utilities. The applicant shall describe the impacts, relationships, and plans for utilizing or mitigating impacts caused by construction or operation of the facility to the following:

- (1) Fire;
- (2) Police;
- (3) Schools;
- (4) Parks or other recreational facilities;
- (5) Maintenance;
- (6) Communications;
- (7) Water/storm water;
- (8) Sewer/solid waste;
- (9) Other governmental services or utilities.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-435 ((~~Physical environment~~)) NPDES application. The applicant shall include a completed National Pollutant Discharge Elimination System permit application.

AMENDATORY SECTION (Amending Order 81-5, filed 10/8/81)

WAC 463-42-525 ((~~Physical environment~~)) Emergency plans. The applicant shall describe emergency plans which will be required to assure the public safety and environmental protection on and off the site in the event of a natural disaster or other major incident relating to or affecting the project and further, will identify the specific responsibilities which will be assumed by the applicant.

AMENDATORY SECTION (Amending Order 81-5, filed 10/3/81)

WAC 463-42-535 ((~~Human environment~~)) Socioeconomic impact. The applicant shall submit a detailed socioeconomic impact study which identifies primary and secondary and positive as well as negative impacts on the socioeconomic environment with particular attention and analysis of impact on population, work forces, property values, housing, traffic, health and safety facilities and services, education facilities and services, and local economy.

AMENDATORY SECTION (Amending WSR 92-09-013, filed 4/2/92, effective 5/3/92)

WAC 463-42-625 ((~~Human environment~~)) Criteria, standards, and factors utilized to develop transmission route. The applicant shall indicate the federal, state, and industry criteria used in the energy transmission route selection and construction factors considered in developing the proposed design and shall indicate how such criteria are satisfied.

AMENDATORY SECTION (Amending Order 87-1, filed 2/11/87)

WAC 463-42-655 ((~~Physical environment~~)) Initial site restoration plan. The applicant or certificate holder shall in the application, or within twelve months after the effective date of this section, whichever occurs later, provide an initial plan for site restoration at the conclusion of the plant's operating life. The plan shall parallel a decommissioning plan, if such a plan is prepared for the project. The initial site restoration plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental, and public health and safety issues presently anticipated. It shall describe the process used to evaluate the options and select the measures that will be taken to restore or preserve the site or otherwise protect all segments of the public against risks or danger resulting from the site. The plan shall include a discussion of economic factors regarding the costs and benefits of various restoration options versus the relative public risk and shall address provisions for funding or bonding arrangements to meet the site restoration or management costs. The plan shall be prepared in detail commensurate with the time until site restoration is to begin. The scope of proposed monitoring shall be addressed in the plan.

REPEALER

The following sections of the Washington Administrative Code are repealed:

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