

FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL

State of Washington

Energy Facility Site Evaluation Council

(name of governing body)

Energy Facility Site Evaluation Council

(agency name, if applicable)

Resolution No. _____

Administrative Order No. 83-1

(1) Be it resolved by the Energy Facility Site Evaluation Council

acting at Olympia, Washington

(place)

that it does adopt the annexed rules relating to:

WAC 463-28-060 Request for Preemption -- Contested Case

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. _____

filed with the code reviser on _____ These rules shall take effect:

thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

at a later date, such date being _____

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We, the Energy Facility Site Evaluation Council, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is: This adoption corrects a procedural error which requires immediate change because the Council is anticipating receipt of a new application for siting of a major energy facility.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026¹ that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

(a) This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute.

(b) This rule is promulgated pursuant to RCW 80.50.040(1) which directs that the

Energy Facility Site Evaluation Council

(agency)

has authority to implement the provisions of

Chapter 80.50 RCW

(name of act or RCW citation)

(c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW _____

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this governing body, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED January 24, 19 83

JAN 27 1983

By

William L. Fitch
Executive Secretary
Title

CODE REVISER'S OFFICE

WSR 83-04-023

AMENDATORY SECTION (Amending Order 78-3, filed 6/23/78)

WAC 463-28-060 REQUEST FOR PREEMPTION--CONTESTED CASE. Should applicant elect to continue processing the application and file a request with the council for state preemption, the council will schedule a contested case hearing on the application as specified under chapter 463-30 WAC. (~~As the first order of business in the contested case;~~) The council shall determine whether to recommend to the governor that the state should preempt the local land use plans or zoning ordinances for a site or portions of a site for the energy facility proposed by the applicant. The factors to be evidenced under this issue are those set forth in WAC 463-28-040. The determination of preemption shall be by council order, and shall be included in its recommendation to the governor pursuant to RCW 80.50.100. The council shall determine this issue on the record before proceeding further in the contested case; thereafter, the remainder of the contested case shall proceed only if preemption is ordered by the council. Otherwise, the procedure shall follow WAC 463-28-080.