

# Chapter 463-62 WAC

## CONSTRUCTION AND OPERATION STANDARDS FOR ENERGY FACILITIES

### WAC

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**WAC 463-62-010 Purpose.** (1) The purpose of this chapter is to implement the policy and intent of RCW 80.50.-010. This chapter sets forth performance standards and mitigation requirements specific to seismicity, noise limits, fish and wildlife, wetlands, water quality, and air quality, associated with site certification for construction and operation of energy facilities under the jurisdiction of the council. The council shall apply these rules to site certification agreements issued in connection with applications filed after the effective date of this chapter. Except for the provisions in chapter 463-66 WAC, these regulations shall not apply to energy facilities for which site certification agreements have been issued before the effective date of this chapter.

(2) The provisions of this chapter shall apply to the construction and operation of energy facilities, pursuant to chapter 80.50 RCW.

(3) Compliance with the standards within this chapter shall satisfy, in their respective subject areas, the requirements for issuance of a site certificate for construction and operation of energy facilities specified in subsection (2) of this section provided, however, that the council may require additional mitigation in the event that documents prepared pursuant to 43.21 RCW (State Environmental Policy Act), demonstrate that the project poses a probable significant adverse impact that is not mitigated by the provisions of this chapter.

[Statutory Authority: Chapter 80.50 RCW and RCW 80.50.040. WSR 09-05-067, § 463-62-010, filed 2/13/09, effective 3/16/09. Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-010, filed 10/11/04, effective 11/11/04.]

**WAC 463-62-020 Seismicity.** The seismicity standard for construction of energy facilities shall be the standards contained in the state building code.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-020, filed 10/11/04, effective 11/11/04.]

**WAC 463-62-030 Noise standards.** Energy facilities shall meet the noise standards established in chapter 70.107 RCW, the Noise Control Act of 1974; and state rules adopted to implement those requirements in chapter 173-60 WAC, Maximum environmental noise levels.

(1) Adoption by reference. The energy facility site evaluation council adopts the following provisions of chapter 173-60 WAC by reference.

(2/13/09)

- (a) WAC 173-60-010 Authority and purpose.
- (b) WAC 173-60-020 Definitions.
- (c) WAC 173-60-030 Identification of environments.
- (d) WAC 173-60-040 Maximum permissible environmental noise levels.
- (e) WAC 173-60-050 Exemptions.
- (f) WAC 173-60-080 Variances and implementation schedules.

(g) WAC 173-60-090 Enforcement policy.

(2) Additional definitions.

(a) "Council" means the energy facility site evaluation council.

(b) In addition to the definitions contained in WAC 173-60-020, "department" and "director" shall be synonymous with the council unless a different meaning is plainly required by context.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-030, filed 10/11/04, effective 11/11/04.]

**WAC 463-62-040 Fish and wildlife.** The council's intent is to achieve no net loss of habitat functions and values by maintaining the functions and values of fish and wildlife habitat in the areas impacted by energy development.

(1) The council encourages applicants to select sites that avoid impacts to any species on federal or state lists of endangered or threatened species or to priority species and habitats.

(2) Standards.

(a) An applicant must demonstrate no net loss of fish and wildlife habitat function and value.

(b) Restoration and enhancement are preferred over creation of habitats due to the difficulty in successfully creating habitat.

(c) Mitigation credits and debits shall be based on a scientifically valid measure of habitat function, value, and area.

(d) The ratios of replacement habitat to impacted habitat shall be greater than 1:1 to compensate for temporal losses, uncertainty of performance, and differences in functions and values.

(e) Wetlands shall be replaced at ratios following the wetland standard established by the council in WAC 463-62-050.

(f) Fish and wildlife surveys shall be conducted during all seasons of the year to determine breeding, summer, winter, migratory usage, and habitat condition of the site.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-040, filed 10/11/04, effective 11/11/04.]

**WAC 463-62-050 Impact and mitigation standards for wetlands.** (1) The council's intent is to achieve no net loss of wetland areas. Wetland impacts shall be avoided wherever possible. Where impacts cannot be avoided, the applicant

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shall be required to take one or more of the following actions (in the following order of preference): Restore wetlands on upland sites that were formerly wetlands; create wetlands on disturbed upland sites; enhance significantly degraded wetlands; and preserve high-quality wetlands that are under imminent threat.

(2) Wetland mitigation actions proposed to compensate for project impacts shall not result in a net loss of wetland area except when the lost wetland area provides minimal functions and the mitigation action(s) will clearly result in a significant net gain in wetland functions as determined by a site-specific function assessment.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-050, filed 10/11/04, effective 11/11/04.]

**WAC 463-62-060 Water quality.** Waste water discharges from projects under the council's jurisdiction shall meet the requirements of applicable state water quality standards, chapter 173-201A WAC, state groundwater quality standards, chapter 173-200 WAC, state sediment management standards, chapter 173-204A WAC, requirements of the Federal Water Pollution Control Act as amended (86 Stat 816,33 U.S.C. 1251, et seq.) and regulations promulgated thereunder.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-060, filed 10/11/04, effective 11/11/04.]

**WAC 463-62-070 Air quality.** Air emissions from energy facilities shall meet the requirements of applicable state air quality laws and regulations promulgated pursuant to the Washington State Clean Air Act, chapter 70.94 RCW, and the Federal Clean Air Act (42 U.S.C. 7401 et seq.), and chapter 463-78 WAC.

[Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-62-070, filed 10/11/04, effective 11/11/04.]