

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-14-030 Public meetings and hearings policy for application reviews. The council encourages, and will provide for, public participation in its public meetings and hearings during reviews of applications for site certification as afforded by law and rule. The following sets forth the public participation in those meetings and hearings required in RCW 80.50.090.

(1) The (~~public~~) informational public hearing as prescribed in RCW 80.50.090(1) shall be held in the county of the proposed site. All persons shall be afforded an opportunity to comment to the council regarding the proposed site.

(2) The public land use consistency hearing as prescribed in RCW 80.50.090(2) shall be held in the county where the proposed site is located to determine whether or not the proposed use of the site is consistent and in compliance with city, county, or regional land use plans and zoning ordinances at the time of application. If the proposed site is located in more than one county, a land use consistency hearing shall be held in each county. The council shall limit public testimony at this hearing to the issue of consistency and compliance with city, county, or regional land use plans and zoning ordinances.

(3) Although all persons desirous of participating may not be accorded "party" status in the public hearing held as an adjudicative proceeding under chapter 34.05 RCW prior to preparation of any recommendation to the governor, the council, at times and places designated by the council, upon compliance with reasonable procedures, shall allow any person desiring to be heard to speak in favor of or in opposition to the proposed site by raising one or more specific issues, provided that the person has raised the issue or issues in writing with specificity during the application review process or during the public comment period held prior to the start of the adjudicative hearing.

(4) The council views the provisions of RCW 80.50.090(4) as authorizing it to conduct additional public hearings as "public informational hearings," "public land use consistency hearings" or "adjudicative proceedings." The council may also hold public meetings concerning the application for site certification.

AMENDATORY SECTION (Amending WSR 78-09-078, filed 8/28/78)

WAC 463-14-040 County, city, and port district representatives—Segmentation of hearings and issues. RCW 80.50.030 (4), (5), and (6) necessitate segmentation of hearings and issues in instances where proposed energy facilities would extend beyond the boundaries of a single county, city, and/or port district.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-14-050 Preemption. Chapter 80.50 RCW operates as a state preemption of all matters relating to the certification of the location, construction, and operational conditions of certification of the energy ((facility sites)) facilities included under RCW 80.50.060 as now or hereafter amended. Chapter 80.50 RCW certification is given in lieu of any permit, certificate, or similar document ~~((which might otherwise be))~~ required by ~~((state agencies and local governments))~~ any department, agency, division, bureau, commission, board, or political subdivision of this state, whether a member of the council or not.

AMENDATORY SECTION (Amending WSR 04-21-013, filed 10/11/04, effective 11/11/04)

WAC 463-14-080 EFSEC deliberative process. RCW 80.50.100 requires the council to report to the governor its recommendation of approval or rejection of an application for certification. In order for the council to develop such a recommendation, it shall use wherever applicable the following deliberative process:

(1) Evaluate an application to determine compliance with chapter 80.50 RCW and chapter 463-60 WAC;

(2) Contract for an independent consultant study ((of the application)) to measure the consequences of the proposed energy facility on the environment or any matter that it deems essential to an adequate approval of the site;

(3) Conduct a review under ~~((the))~~ chapter 43.21C RCW, State Environmental Policy Act;

(4) Conduct an adjudicative proceeding for the presentation of evidence on the application;

(5) Conduct one or more sessions for the taking of public testimony concerning the proposed project;

(6) Consider public comments received;

(7) Consider any laws or ordinances, rules or regulations, which may be preempted by certification.

The council, when fully satisfied that all issues have been adequately reviewed, will consider and by majority decision will ~~((act on the question of approval or rejection of an))~~ make a council recommendation as to the disposition of the application.