

**Chapter 463-28 WAC  
STATE PREEMPTION**

**Last Update:** 5/22/25

**WAC**

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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

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| 463-28-030 | Determination of noncompliance—Procedures. [Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-28-030, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1). WSR 78-07-036 (Order 78-3), § 463-28-030, filed 6/23/78.] Repealed by WSR 07-21-035, filed 10/9/07, effective 11/9/07. Statutory Authority: RCW 80.50.040(1). |
| 463-28-040 | Inability to resolve noncompliance. [Statutory Authority: RCW 80.50.040(1). WSR 78-07-036 (Order 78-3), § 463-28-040, filed 6/23/78.] Repealed by WSR 07-21-035, filed 10/9/07, effective 11/9/07. Statutory Authority: RCW 80.50.040(1).  |
| 463-28-050 | Failure to request preemption. [Statutory Authority: RCW 80.50.040(1). WSR 78-07-036 (Order 78-3), § 463-28-050, filed 6/23/78.] Repealed by WSR 07-21-035, filed 10/9/07, effective 11/9/07. Statutory Authority: RCW 80.50.040(1).   |
| 463-28-090 | Governing rules. [Statutory Authority: RCW 80.50.040(1). WSR 78-07-036 (Order 78-3), § 463-28-090, filed 6/23/78.] Repealed by WSR 04-21-013, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040 (1) and (12).   |

**WAC 463-28-010 Purpose.** This chapter sets forth procedures to be followed by the council in determining whether to recommend to the governor that the state preempt land use plans, zoning ordinances, or other development regulations for a project or portions of a project for energy facilities included under RCW 80.50.060 as now or hereafter amended.

[Statutory Authority: RCW 80.50.040(1). WSR 25-12-020, s 463-28-010, filed 5/22/25, effective 6/22/25; WSR 07-21-035, § 463-28-010, filed 10/9/07, effective 11/9/07. Statutory Authority: RCW 80.50.040 (1) and (12). WSR 04-21-013, § 463-28-010, filed 10/11/04, effective 11/11/04. Statutory Authority: RCW 80.50.040(1). WSR 78-07-036 (Order 78-3), § 463-28-010, filed 6/23/78.]

**WAC 463-28-020 Authority of council—Preemption by state.** The authority of the council is contained in RCW 80.50.040(1) and 80.50.110(2) which provides that the state preempts the regulation and certification of the location, construction, and operational conditions of certification of the energy facilities included under RCW 80.50.060 as now or hereafter amended.

[Statutory Authority: RCW 80.50.040(1). WSR 25-12-020, s 463-28-020, filed 5/22/25, effective 6/22/25; WSR 78-07-036 (Order 78-3), § 463-28-020, filed 6/23/78.]

**WAC 463-28-060 Adjudicative proceeding.** (1) Should the council determine under WAC 463-26-110 a project or any portions of a project is inconsistent, it will schedule an adjudicative proceeding under chapter 463-30 WAC to consider preemption.

(2) The proceeding for preemption may be combined or scheduled concurrent with the adjudicative proceeding held under RCW 80.50.090(4).

(3) The council shall determine whether to recommend to the governor that the state preempt the land use plans, zoning ordinances, or other development regulations for a project or portions of a project for the energy facilities included under RCW 80.50.060 as now or hereafter amended proposed by the applicant.

[Statutory Authority: RCW 80.50.040(1). WSR 25-12-020, s 463-28-060, filed 5/22/25, effective 6/22/25; WSR 07-21-035, § 463-28-060, filed 10/9/07, effective 11/9/07. Statutory Authority: RCW 80.50.040. WSR 91-03-090, § 463-28-060, filed 1/18/91, effective 2/18/91. Statutory Authority: RCW 80.50.040(1). WSR 83-08-031 (Order 83-2), § 463-28-060, filed 3/31/83; WSR 78-07-036 (Order 78-3), § 463-28-060, filed 6/23/78.]

**WAC 463-28-070 Certification—Conditions—State/local interests.**

If the council approves the request for preemption, it shall include conditions in the draft certification agreement to protect state, local governmental, or community interests, or overburdened communities as defined in RCW 70A.20.010 affected by the construction or operation of the facility and to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted pursuant to RCW 80.50.110 as now or hereafter amended.

[Statutory Authority: RCW 80.50.040(1). WSR 25-12-020, s 463-28-070, filed 5/22/25, effective 6/22/25; WSR 07-21-035, § 463-28-070, filed 10/9/07, effective 11/9/07; WSR 78-07-036 (Order 78-3), § 463-28-070, filed 6/23/78.]

**WAC 463-28-080 Preemption—Recommendation.**

The council's determination on a request for preemption shall be part of its recommendation to the governor pursuant to RCW 80.50.100.

[Statutory Authority: RCW 80.50.040(1). WSR 07-21-035, § 463-28-080, filed 10/9/07, effective 11/9/07. Statutory Authority: RCW 80.50.040. WSR 91-03-090, § 463-28-080, filed 1/18/91, effective 2/18/91. Statutory Authority: RCW 80.50.040(1). WSR 78-07-036 (Order 78-3), § 463-28-080, filed 6/23/78.]