
SUBSTITUTE HOUSE BILL 2296

State of Washington 62nd Legislature 2012 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives Morris, McCoy, Ryu, and Hudgins)

READ FIRST TIME 01/27/12.

1 AN ACT Relating to the siting of biofuel processing facilities;
2 amending RCW 80.50.060; and reenacting and amending RCW 80.50.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and
5 amended to read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Alternative energy resource" includes energy facilities of the
9 following types: (a) Wind; (b) solar energy; (c) geothermal energy;
10 (d) landfill gas; (e) wave or tidal action; (~~(f)~~) (f) biomass energy
11 based on solid organic fuels from wood, forest, or field residues, or
12 dedicated energy crops that do not include wood pieces that have been
13 treated with chemical preservatives such as creosote,
14 pentachlorophenol, or copper-chrome-arsenic; or (g) capable of
15 processing more than two thousand five hundred barrels of biofuel per
16 day.

17 (2) "Applicant" means any person who makes application for a site
18 certification pursuant to the provisions of this chapter.

1 (3) "Application" means any request for approval of a particular
2 site or sites filed in accordance with the procedures established
3 pursuant to this chapter, unless the context otherwise requires.

4 (4) "Associated facilities" means storage, transmission, handling,
5 or other related and supporting facilities connecting an energy plant
6 with the existing energy supply, processing, or distribution system,
7 including, but not limited to, communications, controls, mobilizing or
8 maintenance equipment, instrumentation, and other types of ancillary
9 transmission equipment, off-line storage or venting required for
10 efficient operation or safety of the transmission system and overhead,
11 and surface or subsurface lines of physical access for the inspection,
12 maintenance, and safe operations of the transmission facility and new
13 transmission lines constructed to operate at nominal voltages of at
14 least 115,000 volts to connect a thermal power plant or alternative
15 energy facilities to the northwest power grid. However, common carrier
16 railroads or motor vehicles shall not be included.

17 (5) "Biofuel" has the same meaning as defined in RCW 43.325.010.

18 (6) "Certification" means a binding agreement between an applicant
19 and the state which shall embody compliance to the siting guidelines,
20 in effect as of the date of certification, which have been adopted
21 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to
22 be met prior to or concurrent with the construction or operation of any
23 energy facility.

24 (7) "Construction" means on-site improvements, excluding
25 exploratory work, which cost in excess of two hundred fifty thousand
26 dollars.

27 (8) "Council" means the energy facility site evaluation council
28 created by RCW 80.50.030.

29 (9) "Counsel for the environment" means an assistant attorney
30 general or a special assistant attorney general who shall represent the
31 public in accordance with RCW 80.50.080.

32 (10) "Electrical transmission facilities" means electrical power
33 lines and related equipment.

34 (11) "Energy facility" means an energy plant or transmission
35 facilities: PROVIDED, That the following are excluded from the
36 provisions of this chapter:

37 (a) Facilities for the extraction, conversion, transmission or

1 storage of water, other than water specifically consumed or discharged
2 by energy production or conversion for energy purposes; and

3 (b) Facilities operated by and for the armed services for military
4 purposes or by other federal authority for the national defense.

5 (12) "Energy plant" means the following facilities together with
6 their associated facilities:

7 (a) Any nuclear power facility where the primary purpose is to
8 produce and sell electricity;

9 (b) Any nonnuclear stationary thermal power plant with generating
10 capacity of three hundred fifty thousand kilowatts or more, measured
11 using maximum continuous electric generating capacity, less minimum
12 auxiliary load, at average ambient temperature and pressure, and
13 floating thermal power plants of one hundred thousand kilowatts or more
14 suspended on the surface of water by means of a barge, vessel, or other
15 floating platform;

16 (c) Facilities which will have the capacity to receive liquefied
17 natural gas in the equivalent of more than one hundred million standard
18 cubic feet of natural gas per day, which has been transported over
19 marine waters;

20 (d) Facilities which will have the capacity to receive more than an
21 average of fifty thousand barrels per day of crude or refined petroleum
22 or liquefied petroleum gas which has been or will be transported over
23 marine waters, except that the provisions of this chapter shall not
24 apply to storage facilities unless occasioned by such new facility
25 construction;

26 (e) Any underground reservoir for receipt and storage of natural
27 gas as defined in RCW 80.40.010 capable of delivering an average of
28 more than one hundred million standard cubic feet of natural gas per
29 day; and

30 (f) Facilities capable of processing more than twenty-five thousand
31 barrels per day of petroleum or biofuel into refined products except
32 where such biofuel production is undertaken at existing industrial
33 facilities.

34 (13) "Independent consultants" means those persons who have no
35 financial interest in the applicant's proposals and who are retained by
36 the council to evaluate the applicant's proposals, supporting studies,
37 or to conduct additional studies.

1 (14) "Land use plan" means a comprehensive plan or land use element
2 thereof adopted by a unit of local government pursuant to chapter
3 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by
4 chapter 325, Laws of 2007.

5 (15) "Person" means an individual, partnership, joint venture,
6 private or public corporation, association, firm, public service
7 company, political subdivision, municipal corporation, government
8 agency, public utility district, or any other entity, public or
9 private, however organized.

10 (16) "Preapplicant" means a person considering applying for a site
11 certificate agreement for any transmission facility.

12 (17) "Preapplication process" means the process which is initiated
13 by written correspondence from the preapplicant to the council, and
14 includes the process adopted by the council for consulting with the
15 preapplicant and with cities, towns, and counties prior to accepting
16 applications for all transmission facilities.

17 (18) "Secretary" means the secretary of the United States
18 department of energy.

19 (19) "Site" means any proposed or approved location of an energy
20 facility, alternative energy resource, or electrical transmission
21 facility.

22 (20) "Thermal power plant" means, for the purpose of certification,
23 any electrical generating facility using any fuel for distribution of
24 electricity by electric utilities.

25 (21) "Transmission facility" means any of the following together
26 with their associated facilities:

27 (a) Crude or refined petroleum or liquid petroleum product
28 transmission pipeline of the following dimensions: A pipeline larger
29 than six inches minimum inside diameter between valves for the
30 transmission of these products with a total length of at least fifteen
31 miles;

32 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas
33 transmission pipeline of the following dimensions: A pipeline larger
34 than fourteen inches minimum inside diameter between valves, for the
35 transmission of these products, with a total length of at least fifteen
36 miles for the purpose of delivering gas to a distribution facility,
37 except an interstate natural gas pipeline regulated by the United
38 States federal power commission.

1 (22) "Zoning ordinance" means an ordinance of a unit of local
2 government regulating the use of land and adopted pursuant to chapter
3 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
4 Constitution, or as otherwise designated by chapter 325, Laws of 2007.

5 **Sec. 2.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to read
6 as follows:

7 (1) The provisions of this chapter apply to the construction of
8 energy facilities which includes the new construction of energy
9 facilities and the reconstruction or enlargement of existing energy
10 facilities where the net increase in physical capacity or dimensions
11 resulting from such reconstruction or enlargement meets or exceeds
12 those capacities or dimensions set forth in RCW 80.50.020 (~~((7) and~~
13 ~~(15))~~) (12) and (21). No construction of such energy facilities may be
14 undertaken, except as otherwise provided in this chapter, after July
15 15, 1977, without first obtaining certification in the manner provided
16 in this chapter.

17 (2) The provisions of this chapter apply to the construction,
18 reconstruction, or enlargement of a new or existing energy facility
19 that exclusively uses alternative energy resources and chooses to
20 receive certification under this chapter(~~(, regardless of the~~
21 ~~generating capacity of the project))~~). An energy facility that
22 exclusively uses an alternative energy resource as defined in RCW
23 80.50.020(1) (a) through (f) may choose to receive certification under
24 this chapter, regardless of the electrical generating capacity of the
25 project.

26 (3)(a) The provisions of this chapter apply to the construction,
27 reconstruction, or modification of electrical transmission facilities
28 when:

29 (i) The facilities are located in a national interest electric
30 transmission corridor as specified in RCW 80.50.045;

31 (ii) An applicant chooses to receive certification under this
32 chapter, and the facilities are: (A) Of a nominal voltage of at least
33 one hundred fifteen thousand volts and are located in a completely new
34 corridor, except for the terminus of the new facility or
35 interconnection of the new facility with the existing grid, and the
36 corridor is not otherwise used for electrical transmission facilities;

1 and (B) located in more than one jurisdiction that has promulgated land
2 use plans or zoning ordinances; or

3 (iii) An applicant chooses to receive certification under this
4 chapter, and the facilities are: (A) Of a nominal voltage in excess of
5 one hundred fifteen thousand volts; and (B) located outside an
6 electrical transmission corridor identified in (a)(i) and (ii) of this
7 subsection (3).

8 (b) For the purposes of this subsection, "modify" means a
9 significant change to an electrical transmission facility and does not
10 include the following: (i) Minor improvements such as the replacement
11 of existing transmission line facilities or supporting structures with
12 equivalent facilities or structures; (ii) the relocation of existing
13 electrical transmission line facilities; (iii) the conversion of
14 existing overhead lines to underground; or (iv) the placing of new or
15 additional conductors, supporting structures, insulators, or their
16 accessories on or replacement of supporting structures already built.

17 (4) The provisions of this chapter shall not apply to normal
18 maintenance and repairs which do not increase the capacity or
19 dimensions beyond those set forth in RCW 80.50.020 (~~((7) and (15))~~)
20 (12) and (21).

21 (5) Applications for certification of energy facilities made prior
22 to July 15, 1977, shall continue to be governed by the applicable
23 provisions of law in effect on the day immediately preceding July 15,
24 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which shall
25 apply to such prior applications and to site certifications
26 prospectively from July 15, 1977.

27 (6) Applications for certification shall be upon forms prescribed
28 by the council and shall be supported by such information and technical
29 studies as the council may require.

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