
SUBSTITUTE HOUSE BILL 1061

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Hudgins, Linville and Morris)

READ FIRST TIME 02/06/07.

1 AN ACT Relating to siting of energy facilities; amending RCW
2 80.50.060 and 80.50.075; 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 2006 c 205 s 1 and 2006 c 196 s 1 are
5 each reenacted and amended to read as follows:

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

8 (1) "Applicant" means any person who makes application for a site
9 certification pursuant to the provisions of this chapter.

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

13 (3) "Person" means an individual, partnership, joint venture,
14 private or public corporation, association, firm, public service
15 company, political subdivision, municipal corporation, government
16 agency, public utility district, or any other entity, public or
17 private, however organized.

18 (4) "Site" means any proposed or approved location of an energy
19 facility.

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

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

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

22 (a) Crude or refined petroleum or liquid petroleum product
23 transmission pipeline of the following dimensions: A pipeline larger
24 than six inches minimum inside diameter between valves for the
25 transmission of these products with a total length of at least fifteen
26 miles;

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

34 (c) Electrical transmission facilities in excess of 115,000 volts
35 in national interest electric transmission corridors as designated by
36 the United States secretary of the department of energy or the federal
37 energy regulatory commission pursuant to section 1221 of the national

1 energy policy act, and such rules and regulations as the secretary or
2 the federal energy regulatory commission adopts to implement the act.

3 (8) "Independent consultants" means those persons who have no
4 financial interest in the applicant's proposals and who are retained by
5 the council to evaluate the applicant's proposals, supporting studies,
6 or to conduct additional studies.

7 (9) "Thermal power plant" means, for the purpose of certification,
8 any electrical generating facility using any fuel, including nuclear
9 materials, for distribution of electricity by electric utilities.

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

13 (a) Facilities for the extraction, conversion, transmission or
14 storage of water, other than water specifically consumed or discharged
15 by energy production or conversion for energy purposes; and

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

18 (11) "Council" means the energy facility site evaluation council
19 created by RCW 80.50.030.

20 (12) "Counsel for the environment" means an assistant attorney
21 general or a special assistant attorney general who shall represent the
22 public in accordance with RCW 80.50.080.

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

26 (14) "Energy plant" means the following facilities together with
27 their associated facilities:

28 (a) Any stationary thermal power plant with generating capacity of
29 three hundred fifty thousand kilowatts or more, measured using maximum
30 continuous electric generating capacity, less minimum auxiliary load,
31 at average ambient temperature and pressure, and floating thermal power
32 plants of one hundred thousand kilowatts or more, including associated
33 facilities. For the purposes of this subsection, "floating thermal
34 power plants" means a thermal power plant that is suspended on the
35 surface of water by means of a barge, vessel, or other floating
36 platform;

37 (b) Facilities which will have the capacity to receive liquefied

1 natural gas in the equivalent of more than one hundred million standard
2 cubic feet of natural gas per day, which has been transported over
3 marine waters;

4 (c) Facilities which will have the capacity to receive more than an
5 average of fifty thousand barrels per day of crude or refined petroleum
6 or liquefied petroleum gas which has been or will be transported over
7 marine waters, except that the provisions of this chapter shall not
8 apply to storage facilities unless occasioned by such new facility
9 construction;

10 (d) Any underground reservoir for receipt and storage of natural
11 gas as defined in RCW 80.40.010 capable of delivering an average of
12 more than one hundred million standard cubic feet of natural gas per
13 day; and

14 (e) Facilities capable of processing more than twenty-five thousand
15 barrels per day of petroleum into refined products.

16 (15) "Land use plan" means a comprehensive plan or land use element
17 thereof adopted by a unit of local government pursuant to chapter
18 35.63, 35A.63, 36.70, or 36.70A RCW.

19 (16) "Zoning ordinance" means an ordinance of a unit of local
20 government regulating the use of land and adopted pursuant to chapter
21 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
22 Constitution.

23 (17) "Alternative energy resource" means: (a) Wind; (b) solar
24 energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal
25 action; or (f) biomass energy based on solid organic fuels from wood,
26 forest, or field residues, or dedicated energy crops that do not
27 include wood pieces that have been treated with chemical preservatives
28 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

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

31 (19) "Aggregate site certification" means combining in a single
32 application for site certification multiple substantially similar
33 thermal power plants or alternative energy resources proposed for
34 development by an applicant.

35 (20) "Substantially similar" means two or more thermal power plants
36 or alternative energy resources that use the same fuel and generation
37 technology.

1 **Sec. 2.** RCW 80.50.060 and 2006 c 196 s 4 are each amended to read
2 as follows:

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

12 (2) The provisions of this chapter apply to the construction,
13 reconstruction, or enlargement of a new or existing energy facility
14 that exclusively uses alternative energy resources and chooses to
15 receive certification under this chapter, regardless of the generating
16 capacity of the project.

17 (3) The provisions of this chapter apply to the construction of new
18 electrical transmission facilities or the modification of existing
19 electrical transmission facilities in a national interest electric
20 transmission corridor designated by the secretary.

21 (4) The provisions of this chapter shall apply to the construction
22 of new thermal energy plants or alternative energy resources where the
23 applicant chooses to use aggregate site certification.

24 (5) The provisions of this chapter apply to the construction,
25 reconstruction, or enlargement of new or existing energy plants with a
26 generating capacity up to three hundred fifty thousand kilowatts and
27 chooses to receive site certification under this chapter.

28 (6) Local governments may defer jurisdiction over the construction,
29 reconstruction, or enlargement of a new or existing energy plant with
30 a generating capacity from thirty-five thousand kilowatts up to three
31 hundred fifty thousand kilowatts to the council.

32 (7) The provisions of this chapter shall not apply to normal
33 maintenance and repairs which do not increase the capacity or
34 dimensions beyond those set forth in RCW 80.50.020 (7) and (14).

35 (~~(+5)~~) (8) Applications for certification of energy facilities
36 made prior to July 15, 1977, shall continue to be governed by the
37 applicable provisions of law in effect on the day immediately preceding

1 July 15, 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which
2 shall apply to such prior applications and to site certifications
3 prospectively from July 15, 1977.

4 ~~((6))~~ (9) Applications for certification shall be upon forms
5 prescribed by the council and shall be supported by such information
6 and technical studies as the council may require.

7 **Sec. 3.** RCW 80.50.075 and 2006 c 205 s 2 are each amended to read
8 as follows:

9 (1) Any person filing an application for certification ~~((of an
10 energy facility or an alternative energy resource facility pursuant
11 to))~~ under this chapter may apply to the council for an expedited
12 processing of such an application. The application for expedited
13 processing shall be submitted to the council in such form and manner
14 and accompanied by such information as may be prescribed by council
15 rule. The council may grant an applicant expedited processing of an
16 application for certification upon finding that the environmental
17 impact of the proposed energy facility is not significant or will be
18 mitigated to a nonsignificant level under RCW 43.21C.031 and the
19 project is found under RCW 80.50.090(2) to be consistent and in
20 compliance with city, county, or regional land use plans or zoning
21 ordinances.

22 (2) Upon granting an applicant expedited processing of an
23 application for certification, the council shall not be required to:

24 (a) Commission an independent study to further measure the
25 consequences of the proposed energy facility or alternative energy
26 resource facility on the environment, notwithstanding the other
27 provisions of RCW 80.50.071; nor

28 (b) Hold an adjudicative proceeding under chapter 34.05 RCW, the
29 administrative procedure act, on the application.

30 (3) The council shall adopt rules governing the expedited
31 processing of an application for certification pursuant to this
32 section.

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