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SENATE BILL 5550

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State of Washington

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By Senators Morton, Honeyford, Horn, Hale, Hochstatter, Swecker, Deccio, Long, Winsley, McDonald, Hewitt, Sheahan, Rossi and Roach

Read first time 01/26/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to clarifying the authority of the energy facility  
2 site evaluation council; amending RCW 80.50.020 and 80.50.060; adding  
3 a new section to chapter 80.50 RCW; and declaring an emergency.

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

5 **Sec. 1.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read  
6 as follows:

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

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

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

17 (4) "Site" means any proposed or approved location of an energy  
18 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 200,000 volts to connect a thermal power plant to the northwest  
18 power grid: PROVIDED, That common carrier railroads or motor vehicles  
19 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 liquified 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 (8) "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 (9) "Thermal power plant" means, for the purpose of certification,  
2 any electrical generating facility using any fuel, including nuclear  
3 materials, for distribution of electricity by electric utilities;

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

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

10 (b) Facilities operated by and for the armed services for military  
11 purposes or by other federal authority for the national defense;

12 (11) "Council" means the energy facility site evaluation council  
13 created by RCW 80.50.030;

14 (12) "Counsel for the environment" means an assistant attorney  
15 general or a special assistant attorney general who shall represent the  
16 public in accordance with RCW 80.50.080;

17 (13) "Construction" means on-site improvements, excluding  
18 exploratory work, which cost in excess of two hundred fifty thousand  
19 dollars;

20 (14) "Energy plant" means the following facilities together with  
21 their associated facilities:

22 (a) Any stationary thermal power plant with generating capacity of  
23 (~~two~~) six hundred fifty thousand kilowatts or more, measured using  
24 maximum continuous electric generating capacity, less minimum auxiliary  
25 load, at average ambient temperature and pressure, and floating thermal  
26 power plants of fifty thousand kilowatts or more, including associated  
27 facilities;

28 (b) Facilities which will have the capacity to receive liquified  
29 natural gas in the equivalent of more than one hundred million standard  
30 cubic feet of natural gas per day, which has been transported over  
31 marine waters;

32 (c) Facilities which will have the capacity to receive more than an  
33 average of fifty thousand barrels per day of crude or refined petroleum  
34 or liquified petroleum gas which has been or will be transported over  
35 marine waters, except that the provisions of this chapter shall not  
36 apply to storage facilities unless occasioned by such new facility  
37 construction;

38 (d) Any underground reservoir for receipt and storage of natural  
39 gas as defined in RCW 80.40.010 capable of delivering an average of

1 more than one hundred million standard cubic feet of natural gas per  
2 day; and

3 (e) Facilities capable of processing more than twenty-five thousand  
4 barrels per day of petroleum into refined products;

5 (15) "Land use plan" means a comprehensive plan or land use element  
6 thereof adopted by a unit of local government pursuant to chapters  
7 35.63, 35A.63, or 36.70 RCW;

8 (16) "Zoning ordinance" means an ordinance of a unit of local  
9 government regulating the use of land and adopted pursuant to chapters  
10 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

11 **Sec. 2.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended to  
12 read as follows:

13 (1) The provisions of this chapter shall apply to the construction  
14 of energy facilities which includes the new construction of energy  
15 facilities and the reconstruction or enlargement of existing energy  
16 facilities where the net increase in physical capacity or dimensions  
17 resulting from such reconstruction or enlargement meets or exceeds  
18 those capacities or dimensions set forth in RCW 80.50.020 (7) and  
19 (~~(17)~~) (14), as now or hereafter amended. No construction of such  
20 energy facilities may be undertaken, except as otherwise provided in  
21 this chapter, after July 15, 1977, without first obtaining  
22 certification in the manner provided in this chapter.

23 (2) The provisions of this chapter apply to the construction of any  
24 new energy facility or the reconstruction or enlargement of any  
25 existing energy facility if the person responsible for the project  
26 chooses to utilize the process established in this chapter, regardless  
27 of the generating capacity of the project.

28 (3) The provisions of this chapter shall not apply to normal  
29 maintenance and repairs which do not increase the capacity or  
30 dimensions beyond those set forth in RCW 80.50.020 (7) and (~~(17)~~)  
31 (14), as now or hereafter amended.

32 (~~(3)~~) (4) Applications for certification of energy facilities  
33 made prior to July 15, 1977, shall continue to be governed by the  
34 applicable provisions of law in effect on the day immediately preceding  
35 July 15, 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which  
36 shall apply to such prior applications and to site certifications  
37 prospectively from July 15, 1977.

1       (~~(4)~~) (5) Applications for certification shall be upon forms  
2 prescribed by the council and shall be supported by such information  
3 and technical studies as the council may require.

4       NEW SECTION. **Sec. 3.** A new section is added to chapter 80.50 RCW  
5 to read as follows:

6       The council may only develop rules, policies, procedures,  
7 guidelines, or operating protocols that are based directly on state  
8 statutory or administrative code authority. A site certification  
9 agreement may not require compliance with air quality, water quality,  
10 or health protection measures unless the compliance is based on  
11 standards required by state statute or the Washington Administrative  
12 Code.

13       NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 immediately.

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