

SHB 1020 - S COMM AMD

By Committee on Water, Energy & Environment

NOT ADOPTED 04/15/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 80.50.020 and 2001 c 214 s 3 are each amended to read
4 as follows:

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

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.

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

25 (6) "Associated facilities" means storage, transmission, handling,
26 or other related and supporting facilities connecting an energy plant
27 with the existing energy supply, processing, or distribution system,
28 including, but not limited to, communications, controls, mobilizing or
29 maintenance equipment, instrumentation, and other types of ancillary
30 transmission equipment, off-line storage or venting required for

1 efficient operation or safety of the transmission system and overhead,
2 and surface or subsurface lines of physical access for the inspection,
3 maintenance, and safe operations of the transmission facility and new
4 transmission lines constructed to operate at nominal voltages in excess
5 of ((200,000)) 115,000 volts to connect ((~~a thermal power~~)) an energy
6 plant to the northwest power grid: PROVIDED, That common carrier
7 railroads or motor vehicles shall not be included.

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

10 (a) Crude or refined petroleum or liquid petroleum product
11 transmission pipeline of the following dimensions: A pipeline larger
12 than six inches minimum inside diameter between valves for the
13 transmission of these products with a total length of at least fifteen
14 miles;

15 (b) Natural gas, synthetic fuel gas, or liquified petroleum gas
16 transmission pipeline of the following dimensions: A pipeline larger
17 than fourteen inches minimum inside diameter between valves, for the
18 transmission of these products, with a total length of at least fifteen
19 miles for the purpose of delivering gas to a distribution facility,
20 except an interstate natural gas pipeline regulated by the United
21 States federal power commission;

22 (c) Electrical transmission or distribution lines and related
23 equipment designed for or capable of operating at a nominal voltage in
24 excess of one hundred fifteen thousand volts.

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

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

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

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

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

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

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

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

11 (14) "Energy plant" means the following facilities together with
12 their associated facilities:

13 (a) Any stationary thermal power plant with generating capacity of
14 three hundred fifty thousand kilowatts or more, measured using maximum
15 continuous electric generating capacity, less minimum auxiliary load,
16 at average ambient temperature and pressure, and floating thermal power
17 plants of one hundred thousand kilowatts or more, including associated
18 facilities. For the purposes of this subsection, "floating thermal
19 power plants" means a thermal power plant that is suspended on the
20 surface of water by means of a barge, vessel, or other floating
21 platform;

22 (b) Facilities that generate electricity using alternative energy
23 resources as the source of power;

24 (c) Facilities which will have the capacity to receive liquified
25 natural gas in the equivalent of more than one hundred million standard
26 cubic feet of natural gas per day, which has been transported over
27 marine waters;

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

34 (~~(d)~~) (e) Any underground reservoir for receipt and storage of
35 natural gas as defined in RCW 80.40.010 capable of delivering an
36 average of more than one hundred million standard cubic feet of natural
37 gas per day; and

1 ~~((e))~~ (f) Facilities capable of processing more than twenty-five
2 thousand barrels per day of petroleum into refined products.

3 (15) "Land use plan" means a comprehensive plan or land use element
4 thereof adopted by a unit of local government pursuant to chapter~~((s))~~
5 35.63, 35A.63, ~~((e))~~ 36.70, or 36.70A RCW.

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

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

16 **Sec. 2.** RCW 80.50.060 and 2001 c 214 s 2 are each amended to read
17 as follows:

18 (1) Except as provided in subsections (2) and (3) of this section,
19 the provisions of this chapter shall apply to the construction of
20 energy facilities which includes the new construction of energy
21 facilities and the reconstruction or enlargement of existing energy
22 facilities where the net increase in physical capacity or dimensions
23 resulting from such reconstruction or enlargement meets or exceeds
24 those capacities or dimensions set forth in RCW 80.50.020 (7) and (14).
25 No construction of such energy facilities may be undertaken, except as
26 otherwise provided in this chapter, after July 15, 1977, without first
27 obtaining certification in the manner provided in this chapter.

28 (2) The provisions of this chapter apply to the construction,
29 reconstruction, or enlargement of a new or existing energy facility
30 that exclusively uses alternative energy resources and chooses to
31 receive certification under this chapter, regardless of the generating
32 capacity of the project.

33 (3) The provisions of this chapter apply, consistent with section
34 4 of this act, to the construction of new electrical transmission
35 facilities and the reconstruction or expansion of existing electrical
36 transmission facilities where the person developing the new or expanded

1 electrical transmission facilities chooses to receive certification
2 under this chapter.

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

6 (~~(4)~~) (5) Applications for certification of energy facilities
7 made prior to July 15, 1977 shall continue to be governed by the
8 applicable provisions of law in effect on the day immediately preceding
9 July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which
10 shall apply to such prior applications and to site certifications
11 prospectively from July 15, 1977.

12 (~~(5)~~) (6) Applications for certification shall be upon forms
13 prescribed by the council and shall be supported by such information
14 and technical studies as the council may require.

15 **Sec. 3.** RCW 80.50.090 and 2001 c 214 s 7 are each amended to read
16 as follows:

17 (1) The council shall conduct an informational public hearing in
18 the county of the proposed site as soon as practicable but not later
19 than sixty days after receipt of an application for site certification:
20 PROVIDED, That the place of such public hearing shall be as close as
21 practical to the proposed site.

22 (2) Subsequent to the informational public hearing, the council
23 shall conduct a public hearing to determine whether or not the proposed
24 site is consistent and in compliance with city, county, or regional
25 land use plans or zoning ordinances. If it is determined that the
26 proposed site does conform with existing land use plans or zoning
27 ordinances in effect as of the date of the application, the county or
28 regional planning authority shall not thereafter change such land use
29 plans or zoning ordinances so as to affect the proposed site.

30 (3) Prior to the issuance of a council recommendation to the
31 governor under RCW 80.50.100 a public hearing, conducted as an
32 adjudicative proceeding under chapter 34.05 RCW, the Administrative
33 Procedure Act, shall be held. At such public hearing any person shall
34 be entitled to be heard in support of or in opposition to the
35 application for certification.

36 (4) Additional public hearings shall be held as deemed appropriate
37 by the council in the exercise of its functions under this chapter.

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

3 (1) The council's jurisdiction under RCW 80.50.060(3) takes effect
4 January 1, 2012.

5 (2) Effective January 1, 2012, for applications to site electrical
6 transmission facilities under RCW 80.50.060(3), the council has
7 jurisdiction in counties or cities that have not, before the
8 applicant's submission of the application, identified corridors for
9 electrical transmission facilities in accordance with applicable
10 statutory or local land use planning requirements.

11 (3) Effective January 1, 2012, for applications to site electrical
12 transmission facilities under RCW 80.50.060(3), the council must
13 approve applications for siting of electrical transmission facilities
14 in corridors identified for such purposes by a county or city under
15 applicable statutory or local land use planning procedures.

16 (4) The provisions of this section are intended to limit the
17 council's authority to certify the location of electrical transmission
18 facilities but not the regulation, construction, and operational
19 conditions of the electrical transmission facilities. The provisions
20 of this section are not intended to limit the council's authority to
21 certify transmission lines as associated facilities under RCW
22 80.50.060(1).

23 **Sec. 5.** RCW 80.50.110 and 1975-'76 2nd ex.s. c 108 s 37 are each
24 amended to read as follows:

25 Except as provided in section 4 of this act:

26 (1) If any provision of this chapter is in conflict with any other
27 provision, limitation, or restriction which is now in effect under any
28 other law of this state, or any rule (~~(or regulation promulgated)~~)
29 adopted thereunder, this chapter shall govern and control and such
30 other law or rule (~~(or regulation promulgated thereunder)~~) shall be
31 deemed superseded for the purposes of this chapter(~~(-)~~); and

32 (2) The state (~~(hereby)~~) preempts the regulation and certification
33 of the location, construction, and operational conditions of
34 certification of the energy facilities included under RCW 80.50.060
35 (~~(as now or hereafter amended)~~)."

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1 On page 1, line 2 of the title, after "council;" strike the
2 remainder of the title and insert "amending RCW 80.50.020, 80.50.060,
3 80.50.090, and 80.50.110; and adding a new section to chapter 80.50
4 RCW."

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