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**SENATE BILL 5241**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Liias, Boehnke, Christian, Cortes, Dozier, Hasegawa, MacEwen, Nobles, Saldaña, Salomon, Shewmake, and J. Wilson; by request of Energy Facilities Siting and Evaluation Council

AN ACT Relating to adding fusion energy to facilities that may obtain site certification for the purposes of chapter 80.50 RCW; amending RCW 80.50.060; and reenacting and amending RCW 80.50.020.

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

**Sec.**  RCW 80.50.020 and 2022 c 183 s 2 are each reenacted and amended to read as follows:

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

(1) "Alternative energy resource" includes energy facilities of the following types: (a) Wind; (b) solar energy; (c) geothermal energy; (d) renewable natural gas; (e) wave or tidal action; (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; or (g) renewable or green electrolytic hydrogen.

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

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

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

(5) "Biofuel" means a liquid or gaseous fuel derived from organic matter including, but not limited to, biodiesel, renewable diesel, ethanol, renewable natural gas, and renewable propane.

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

(7) "Clean energy product manufacturing facility" means a facility that exclusively or primarily manufactures the following products or components primarily used by such products:

(a) Vehicles, vessels, and other modes of transportation that emit no exhaust gas from the onboard source of power, other than water vapor;

(b) Charging and fueling infrastructure for electric, hydrogen, or other types of vehicles that emit no exhaust gas from the onboard source of power, other than water vapor;

(c) Renewable or green electrolytic hydrogen, including preparing renewable or green electrolytic hydrogen for distribution as an energy carrier or manufacturing feedstock, or converting it to a green hydrogen carrier;

(d) Equipment and products used to produce energy from alternative energy resources; and

(e) Equipment and products used at storage facilities.

(8) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of ((~~two hundred fifty thousand dollars~~)) $250,000.

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

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

(11) "Director" means the director of the energy facility site evaluation council appointed by the chair of the council in accordance with RCW 80.50.360.

(12) "Electrical transmission facilities" means electrical power lines and related equipment.

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

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

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

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

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

(b) Any nonnuclear stationary thermal power plant with generating capacity of ((~~three hundred fifty thousand~~)) 350,000 kilowatts or more, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure, and floating thermal power plants of ((~~one hundred thousand~~)) 100,000 kilowatts or more suspended on the surface of water by means of a barge, vessel, or other floating platform;

(c) Facilities which will have the capacity to receive liquefied natural gas in the equivalent of more than ((~~one hundred million~~)) 100,000,000 standard cubic feet of natural gas per day, which has been transported over marine waters;

(d) Facilities which will have the capacity to receive more than an average of ((~~fifty thousand~~)) 50,000 barrels per day of crude or refined petroleum or liquefied petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

(e) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than ((~~one hundred million~~)) 100,000,000 standard cubic feet of natural gas per day; and

(f) Facilities capable of processing more than ((~~twenty-five thousand~~)) 25,000 barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities.

(15)(a) "Green electrolytic hydrogen" means hydrogen produced through electrolysis.

(b) "Green electrolytic hydrogen" does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(16) "Green hydrogen carrier" means a chemical compound, created using electricity or renewable resources as energy input and without use of fossil fuel as a feedstock, from renewable hydrogen or green electrolytic hydrogen for the purposes of transportation, storage, and dispensing of hydrogen.

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

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

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

(20) "Preapplicant" means a person considering applying for a site certificate agreement for any facility.

(21) "Preapplication process" means the process which is initiated by written correspondence from the preapplicant to the council, and includes the process adopted by the council for consulting with the preapplicant and with federally recognized tribes, cities, towns, and counties prior to accepting applications for any facility.

(22) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(23) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(24) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

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

(26) "Site" means any proposed or approved location of an energy facility, alternative energy resource, clean energy product manufacturing facility, or electrical transmission facility.

(27) "Storage facility" means a plant that: (a) Accepts electricity as an energy source and uses a chemical, thermal, mechanical, or other process to store energy for subsequent delivery or consumption in the form of electricity; or (b) stores renewable hydrogen, green electrolytic hydrogen, or a green hydrogen carrier for subsequent delivery or consumption.

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

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

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least ((~~fifteen~~)) 15 miles;

(b) Natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipeline of the following dimensions: A pipeline larger than ((~~fourteen~~)) 14 inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least ((~~fifteen~~)) 15 miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal energy regulatory commission.

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

**Sec.**  RCW 80.50.060 and 2023 c 229 s 4 are each amended to read as follows:

(1)(a) The provisions of this chapter apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020 (14) and (29). No construction or reconstruction of such energy facilities may be undertaken, except as otherwise provided in this chapter, without first obtaining certification in the manner provided in this chapter.

(b) If applicants proposing the following types of facilities choose to receive certification under this chapter, the provisions of this chapter apply to the construction, reconstruction, or enlargement of these new or existing facilities:

(i) Facilities that produce refined biofuel, but which are not capable of producing 25,000 barrels or more per day;

(ii) Alternative energy resource facilities;

(iii) Electrical transmission facilities: (A) Of a nominal voltage of at least 115,000 volts; and (B) located in more than one jurisdiction that has promulgated land use plans or zoning ordinances;

(iv) Clean energy product manufacturing facilities; ((~~and~~))

(v) Storage facilities; and

(vi) Fusion energy facilities. However, such a fusion energy facility receiving site certification must also secure required licenses and registrations, or equivalent authorizations, for radiation control purposes from designated state or federal agencies.

(c) All of the council's powers with regard to energy facilities apply to all of the facilities in (b) of this subsection and these facilities are subject to all provisions of this chapter that apply to an energy facility.

(2)(a) The provisions of this chapter must apply to:

(i) The construction, reconstruction, or enlargement of new or existing electrical transmission facilities: (A) Of a nominal voltage of at least 500,000 volts alternating current or at least 300,000 volts direct current; (B) located in more than one county; and (C) located in the Washington service area of more than one retail electric utility; and

(ii) The construction, reconstruction, or modification of electrical transmission facilities when the facilities are located in a national interest electric transmission corridor as specified in RCW 80.50.045.

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

(3) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

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

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

(6) Upon receipt of an application for certification under this chapter, the chair of the council shall notify:

(a) The appropriate county legislative authority or authorities where the proposed facility is located;

(b) The appropriate city legislative authority or authorities where the proposed facility is located;

(c) The department of archaeology and historic preservation; and

(d) The appropriate federally recognized tribal governments that may be affected by the proposed facility.

(7) The council must work with local governments where a project is proposed to be sited in order to provide for meaningful participation and input during siting review and compliance monitoring.

(8) The council must consult with all federally recognized tribes that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed to be located to provide early and meaningful participation and input during siting review and compliance monitoring. The chair and designated staff must offer to conduct government-to-government consultation to address issues of concern raised by such a tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the proposed energy facility and to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. The chair must provide regular updates on the consultation to the council throughout the application review process. The report from the council to the governor required in RCW 80.50.100 must include a summary of the government-to-government consultation process that complies with RCW 42.56.300, including the issues and proposed resolutions.

(9) The department of archaeology and historic preservation shall coordinate with the affected federally recognized tribes and the applicant in order to assess potential effects to tribal cultural resources, archaeological sites, and sacred sites.

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