

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 176

AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-8.5-12.1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2023 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.1. (a) As used in this section, "small modular nuclear reactor" means a nuclear reactor that:

- (1) has a rated electric generating capacity of not more than ~~three~~ **four** hundred ~~fifty (350)~~ **seventy (470)** megawatts;
- (2) is capable of being constructed and operated, either:
 - (A) alone; or
 - (B) in combination with one (1) or more similar reactors if additional reactors are, or become, necessary;at a single site; and
- (3) is required to be licensed by the United States Nuclear Regulatory Commission.

The term includes a nuclear reactor that is described in this subsection and that uses a process to produce hydrogen that can be used for energy storage, as a fuel, or for other uses.

(b) Not later than July 1, 2023, the commission, in consultation with the department of environmental management, shall adopt rules under ~~IC 4-2-22~~ **IC 4-22-2** concerning the granting of certificates under this chapter for the construction, purchase, or lease of small modular nuclear reactors:

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(1) in Indiana for the generation of electricity to be directly or indirectly used to furnish public utility service to Indiana customers; or

(2) at the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers on July 1, 2011.

(c) Rules adopted by the commission under this section must provide for the following:

(1) That in acting on a public utility's petition for the construction, purchase, or lease of one (1) or more small modular nuclear reactors, as described in subsection (b), the commission shall consider the following:

(A) Whether, and to what extent, the one (1) or more small modular nuclear reactors proposed by the public utility will replace a loss of generating capacity in the public utility's portfolio resulting from the retirement or planned retirement of one (1) or more of the public utility's existing electric generating facilities that:

- (i) are located in Indiana; and
- (ii) use coal or natural gas as a fuel source.

(B) Whether one (1) or more of the small modular nuclear reactors that will replace an existing facility will be located on the same site as or near the existing facility and, if so, potential opportunities for the public utility to:

- (i) make use of any land and existing infrastructure or facilities already owned or under the control of the public utility; or
- (ii) create new employment opportunities for workers who have been, or would be, displaced as a result of the retirement of the existing facility.

(2) That the commission may grant a certificate under this chapter under circumstances and for locations other than those described in subdivision (1).

(3) That the commission may not grant a certificate under this chapter unless the owner or operator of a proposed small modular nuclear reactor provides evidence of a plan to apply for all licenses or permits to construct or operate the proposed small modular nuclear reactor as may be required by:

- (A) the United States Nuclear Regulatory Commission;
- (B) the department of environmental management; or
- (C) any other relevant state or federal regulatory agency with jurisdiction over the construction or operation of nuclear



generating facilities.

- (4) That any:
- (A) reports;
 - (B) notices of violations; or
 - (C) other notifications;

sent to or from the United States Nuclear Regulatory Commission by or to the owner or operator of a proposed small nuclear reactor must be submitted by the owner or operator to the commission within such times as prescribed by the commission, subject to the commission's duty to treat as confidential and protect from public access and disclosure any information that is contained in a report or notice and that is considered confidential or exempt from public access and disclosure under state or federal law.

(5) That any person that owns or operates a small modular nuclear reactor in Indiana may not store:

- (A) spent nuclear fuel (as defined in IC 13-11-2-216); or
- (B) high level radioactive waste (as defined in IC 13-11-2-102);

from the small modular nuclear reactor on the site of the small modular nuclear reactor without first meeting all applicable requirements of the United States Nuclear Regulatory Commission.

(d) In adopting the rules required by this section, the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

(e) This section shall not be construed to affect the authority of the United States Nuclear Regulatory Commission.

SECTION 2. IC 8-1-8.8-10.2, AS ADDED BY P.L.155-2022, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.2. (a) As used in this chapter, "small modular nuclear reactor" means a nuclear reactor that:

- (1) has a rated electric generating capacity of not more than ~~three~~ **four hundred fifty (350) seventy (470)** megawatts;
- (2) is capable of being constructed and operated, either:
 - (A) alone; or
 - (B) in combination with one (1) or more similar reactors if additional reactors are, or become, necessary;
 at a single site; and



(3) is required to be licensed by the United States Nuclear Regulatory Commission.

(b) The term includes a nuclear reactor that:

(1) is described in subsection (a); and

(2) uses a process to produce hydrogen that can be used:

(A) for energy storage;

(B) as a fuel; or

(C) for other uses.

SECTION 3. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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