
SENATE BILL 5015

State of Washington

69th Legislature

2025 Regular Session

By Senator Boehnke

Prefiled 12/05/24.

1 AN ACT Relating to increasing efficiency at the energy facility
2 site evaluation council by removing the governor from the project
3 approval process; amending RCW 80.50.040, 80.50.045, 80.50.060,
4 80.50.071, 80.50.090, 80.50.100, 80.50.105, 80.50.130, 80.50.330,
5 70A.15.3130, 80.70.020, 80.80.040, 90.48.262, and 90.58.140; creating
6 a new section; and repealing RCW 80.50.320.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the energy
9 facility site evaluation process culminates in a recommendation to
10 the governor as the final step in the process. The legislature
11 determines that the site evaluation process would be improved if the
12 council were authorized to make the final decision without the
13 necessity of making a recommendation to the governor. The council is
14 the primary decision maker in the site evaluation process, having
15 reviewed and considered all evidence, reports, comments, and
16 submissions by the parties and participants in an adjudicative
17 proceeding. With respect to the office of the governor, the
18 governor's role in the process, apart from appointing the chair of
19 the council, is not a critical piece of the overall project review,
20 and the efficiency and speediness of the site evaluation process

1 would be streamlined by making the council the final decision maker
2 on the projects it reviews.

3 **Sec. 2.** RCW 80.50.040 and 2022 c 183 s 5 are each amended to
4 read as follows:

5 The council shall have the following powers:

6 (1) To adopt, promulgate, amend, or rescind suitable rules and
7 regulations, pursuant to chapter 34.05 RCW, to carry out the
8 provisions of this chapter, and the policies and practices of the
9 council in connection therewith;

10 (2) To develop and apply environmental and ecological guidelines
11 in relation to the type, design, location, construction, initial
12 operational conditions of certification, and ongoing regulatory
13 oversight under the regulatory authority established in this chapter
14 of energy facilities subject to this chapter;

15 (3) To establish rules of practice for the conduct of public
16 hearings pursuant to the provisions of the Administrative Procedure
17 Act, as found in chapter 34.05 RCW;

18 (4) To prescribe the form, content, and necessary supporting
19 documentation for site certification;

20 (5) To receive applications for energy facility locations and to
21 investigate the sufficiency thereof;

22 (6) To enter into contracts to carry out the provisions of this
23 chapter;

24 (7) To conduct hearings on the proposed location and operational
25 conditions of the energy facilities under the regulatory authority
26 established in this chapter;

27 (8) To prepare written reports (~~(to the governor)~~) which shall
28 include: (a) A statement indicating whether the application is in
29 compliance with the council's guidelines, (b) criteria specific to
30 the site and transmission line routing, (c) a council
31 (~~(recommendation)~~) decision as to the disposition of the application,
32 and (d) a (~~(draft)~~) certification agreement when the council
33 (~~(recommends approval of)~~) approves the application;

34 (9) To prescribe the means for monitoring of the effects arising
35 from the construction and the operation of energy facilities to
36 assure continued compliance with terms of certification and/or
37 permits issued by the council pursuant to chapter 90.48 RCW or
38 subsection (12) of this section: PROVIDED, That any on-site
39 inspection required by the council shall be performed by other state

1 agencies pursuant to interagency agreement: PROVIDED FURTHER, That
2 the council may retain authority for determining compliance relative
3 to monitoring;

4 (10) To integrate its site evaluation activity with activities of
5 federal agencies having jurisdiction in such matters to avoid
6 unnecessary duplication;

7 (11) To present state concerns and interests to other states,
8 regional organizations, and the federal government on the location,
9 construction, and operation of any energy facility which may affect
10 the environment, health, or safety of the citizens of the state of
11 Washington;

12 (12) To issue permits in compliance with applicable provisions of
13 the federally approved state implementation plan adopted in
14 accordance with the Federal Clean Air Act, as now existing or
15 hereafter amended, for the new construction, reconstruction, or
16 enlargement or operation of energy facilities: PROVIDED, That such
17 permits shall become effective only if the (~~governor~~) council
18 approves an application for certification and executes a
19 certification agreement pursuant to this chapter: AND PROVIDED
20 FURTHER, That all such permits be conditioned upon compliance with
21 all provisions of the federally approved state implementation plan
22 which apply to energy facilities covered within the provisions of
23 this chapter; and

24 (13) To serve as an interagency coordinating body for energy-
25 related issues.

26 **Sec. 3.** RCW 80.50.045 and 2023 c 229 s 5 are each amended to
27 read as follows:

28 (1) The council shall consult with other state agencies,
29 utilities, local municipal governments, public interest groups,
30 tribes, and other interested persons to convey their views to the
31 secretary and the federal energy regulatory commission regarding
32 appropriate limits on federal regulatory authority in the siting of
33 electrical transmission corridors in the state of Washington.

34 (2) The council is designated as the state authority for purposes
35 of siting transmission facilities under Title 16 U.S.C. Sec. 824p and
36 for purposes of other such rules or regulations adopted by the
37 secretary. The council's authority regarding transmission facilities
38 under this subsection is limited to those transmission facilities
39 that are the subject of Title 16 U.S.C. Sec. 824p and this chapter.

1 (3) For the construction and modification of transmission
2 facilities that are the subject of Title 16 U.S.C. Sec. 824p, the
3 council may: (a) Approve the siting of the facilities; and (b)
4 consider the interstate benefits expected to be achieved by the
5 proposed construction or modification of the facilities in the state.

6 (4) When (~~developing recommendations as to the disposition of~~)
7 reviewing an application for the construction or modification of
8 transmission facilities under this chapter, the fuel source of the
9 electricity carried by the transmission facilities shall not be
10 considered.

11 (5) For electrical transmission projects proposed or sited by a
12 federal agency, the director must coordinate state agency
13 participation in environmental review under the national
14 environmental policy act.

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

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

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

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

32 (ii) Alternative energy resource facilities;

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

37 (iv) Clean energy product manufacturing facilities; and

38 (v) Storage facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **Sec. 5.** RCW 80.50.071 and 2022 c 183 s 8 are each amended to
34 read as follows:

35 (1) The council shall receive all applications for energy
36 facility site certification. Each applicant shall pay actual costs
37 incurred by the council in processing an application.

38 (a) Each applicant shall, at the time of application submission,
39 pay to the council for deposit into the energy facility site

1 evaluation council account created in RCW 80.50.390 an amount up to
2 fifty thousand dollars, or such greater amount as specified by the
3 council after consultation with the applicant. The council shall
4 charge costs against the deposit if the applicant withdraws its
5 application and has not reimbursed the council for all actual
6 expenditures incurred in considering the application.

7 (b) The council may commission its own independent consultant
8 study to measure the consequences of the proposed energy facility on
9 the environment or any matter that it deems essential to an adequate
10 appraisal of the site. The council shall provide an estimate of the
11 cost of the study to the applicant and consider applicant comments.

12 (c) In addition to the deposit required under (a) of this
13 subsection, applicants must reimburse the council for actual
14 expenditures that arise in considering the application, including the
15 cost of any independent consultant study. The council shall submit to
16 each applicant an invoice of actual expenditures made during the
17 preceding calendar quarter in sufficient detail to explain the
18 expenditures. The applicant shall pay the council the amount of the
19 invoice by the due date.

20 (2) Each certificate holder shall pay the actual costs incurred
21 by the council for inspection and determination of compliance by the
22 certificate holder with the terms of the certification relative to
23 monitoring the effects of construction, operation, and site
24 restoration of the facility.

25 (a) Each certificate holder shall, within (~~thirty~~) 30 days of
26 execution of the site certification agreement, pay to the council for
27 deposit into the energy facility site evaluation council account
28 created in RCW 80.50.390 an amount up to (~~fifty thousand dollars~~)
29 \$50,000, or such greater amount as specified by the council after
30 consultation with the certificate holder. The council shall charge
31 costs against the deposit if the certificate holder ceases operations
32 and has not reimbursed the council for all actual expenditures
33 incurred in conducting inspections and determining compliance with
34 the terms of the certification.

35 (b) In addition to the deposit required under (a) of this
36 subsection, certificate holders must reimburse the council for actual
37 expenditures that arise in administering this chapter and determining
38 compliance. The council shall submit to each certificate holder an
39 invoice of the expenditures actually made during the preceding
40 calendar quarter in sufficient detail to explain the expenditures.

1 The certificate holder shall pay the amount of the invoice by the due
2 date.

3 (3) If an applicant or certificate holder fails to provide the
4 initial deposit, or if subsequently required payments are not
5 received within (~~thirty~~) 30 days following receipt of the invoice
6 from the council, the council may (a) in the case of the applicant,
7 suspend processing of the application until payment is received; or
8 (b) in the case of a certificate holder, suspend the certification.

9 (4) All payments required of the applicant or certificate holder
10 under this section are to be made to the council for deposit into the
11 energy facility site evaluation council account created in RCW
12 80.50.390. All such funds shall be subject to state auditing
13 procedures. Any unexpended portions of the deposit shall be returned
14 to the applicant within (~~sixty~~) 60 days following the conclusion of
15 the application process or to the certificate holder within (~~sixty~~)
16 60 days after a determination by the council that the certificate is
17 no longer required and there is no continuing need for compliance
18 with its terms. For purposes of this section, "conclusion of the
19 application process" means after the (~~governor's~~) council's
20 decision granting or denying a certificate and the expiration of any
21 opportunities for judicial review.

22 (5) (a) Upon receipt of an application for an energy facility site
23 certification proposing an energy plant or alternative energy
24 resource that is connected to electrical transmission facilities of a
25 nominal voltage of at least (~~one hundred fifteen thousand~~) 115,000
26 volts, the council shall notify in writing the United States
27 department of defense. The notification shall include, but not be
28 limited to, the following:

29 (i) A description of the proposed energy plant or alternative
30 energy resource;

31 (ii) The location of the site;

32 (iii) The placement of the energy plant or alternative energy
33 resource on the site;

34 (iv) The date and time by which comments must be received by the
35 council; and

36 (v) Contact information of the council and the applicant.

37 (b) The purpose of the written notification is to provide an
38 opportunity for the United States department of defense to comment
39 upon the application, and to identify potential issues relating to
40 the placement and operations of the energy plant or alternative

1 energy resource, before a site certification application is approved.
2 The time period set forth by the council for receipt of such comments
3 shall not extend the time period for the council's processing of the
4 application.

5 (c) In order to assist local governments required to notify the
6 United States department of defense under RCW 35.63.270, 35A.63.290,
7 and 36.01.320, the council shall post on its website the appropriate
8 information for contacting the United States department of defense.

9 **Sec. 6.** RCW 80.50.090 and 2022 c 183 s 9 are each amended to
10 read as follows:

11 (1) The council shall conduct an informational public hearing in
12 the county of the proposed site as soon as practicable but not later
13 than (~~sixty~~) 60 days after receipt of an application for site
14 certification. However, the place of such public hearing shall be as
15 close as practical to the proposed site.

16 (2) Subsequent to the informational public hearing, the council
17 shall conduct a public hearing to determine whether or not the
18 proposed site is consistent and in compliance with city, county, or
19 regional land use plans or zoning ordinances on the date of the
20 application.

21 (3)(a) After the submission of an environmental checklist and
22 prior to issuing a threshold determination that a facility is likely
23 to cause a significant adverse environmental impact under chapter
24 43.21C RCW, the director must notify the project applicant and
25 explain in writing the basis for its anticipated determination of
26 significance. Prior to issuing the threshold determination of
27 significance, the director must give the project applicant the option
28 of withdrawing and revising its application and the associated
29 environmental checklist to clarify or make changes to features of the
30 proposal that are designed to mitigate the impacts that were the
31 basis of the director's anticipated determination of significance.
32 The director shall make the threshold determination based upon the
33 changed or clarified proposal following the applicant's submittal.
34 The director must provide an opportunity for public comment on a
35 project for which a project applicant has withdrawn and revised the
36 application and environmental checklist and subsequently received a
37 threshold determination of nonsignificance or mitigated determination
38 of nonsignificance.

1 (b) The notification required under (a) of this subsection is not
2 an official determination by the director and is not subject to
3 appeal under chapter 43.21C RCW.

4 (4) Prior to the issuance of a council (~~recommendation to the~~
5 ~~governor~~) decision under RCW 80.50.100 a public hearing, conducted
6 as an adjudicative proceeding under chapter 34.05 RCW, the
7 administrative procedure act, shall be held.

8 (a) At such public hearing any person shall be entitled to be
9 heard in support of or in opposition to the application for
10 certification by raising one or more specific issues, provided that
11 the person has raised the issue or issues in writing with specificity
12 during the application review process or during the public comment
13 period that will be held prior to the start of the adjudicative
14 hearing.

15 (b) If the environmental impact of the proposed facility in an
16 application for certification is not significant or will be mitigated
17 to a nonsignificant level under RCW 43.21C.031, the council may limit
18 the topic of the public hearing conducted as an adjudicative
19 proceeding under this section to whether any land use plans or zoning
20 ordinances with which the proposed site is determined to be
21 inconsistent under subsection (2) of this section should be
22 preempted.

23 (5) After expedited processing is granted under RCW 80.50.075,
24 the council must hold a public meeting to take comments on the
25 proposed application prior to issuing a council (~~recommendation to~~
26 ~~the governor~~) decision on the application.

27 (6) Additional public hearings shall be held as deemed
28 appropriate by the council in the exercise of its functions under
29 this chapter.

30 **Sec. 7.** RCW 80.50.100 and 2022 c 183 s 10 are each amended to
31 read as follows:

32 (1)(a) The council shall (~~report to the governor~~) make its
33 (~~recommendations~~) decision as to the approval or rejection of an
34 application for certification within (~~twelve~~) 12 months of receipt
35 by the council of an application deemed complete by the director, or
36 such later time as is mutually agreed by the council and the
37 applicant.

1 (b) The council shall review and consider comments received
2 during the application process in making its ~~((recommendation))~~
3 decision.

4 (c) In the case of an application filed prior to December 31,
5 2025, for certification of an energy facility proposed for
6 construction, modification, or expansion for the purpose of providing
7 generating facilities that meet the requirements of RCW 80.80.040 and
8 are located in a county with a coal-fired electric generation
9 facility subject to RCW 80.80.040(3)(c), the council shall expedite
10 the processing of the application pursuant to RCW 80.50.075 and shall
11 ~~((report its recommendations to the governor within one hundred
12 eighty))~~ make its decision within 180 days of receipt by the council
13 of such an application, or a later time as is mutually agreed by the
14 council and the applicant.

15 (2) If the council ~~((recommends approval of))~~ approves an
16 application for certification, it shall also submit a ~~((draft))~~
17 certification agreement with the ~~((report))~~ approval to the
18 applicant. The council shall include conditions in the ~~((draft))~~
19 certification agreement to implement the provisions of this chapter
20 including, but not limited to, conditions to protect state, local
21 governmental, or community interests, or overburdened communities as
22 defined in RCW 70A.02.010 affected by the construction or operation
23 of the facility, and conditions designed to recognize the purpose of
24 laws or ordinances, or rules or regulations promulgated thereunder,
25 that are preempted or superseded pursuant to RCW 80.50.110 as now or
26 hereafter amended.

27 (3) ~~((a) Within 60 days of receipt of the council's report the
28 governor shall take one of the following actions:~~

29 ~~((i) Approve the application and execute the draft certification
30 agreement; or~~

31 ~~((ii) Reject the application; or~~

32 ~~((iii) Direct the council to reconsider certain aspects of the
33 draft certification agreement.~~

34 ~~((b) The council shall reconsider such aspects of the draft
35 certification agreement by reviewing the existing record of the
36 application or, as necessary, by reopening the adjudicative
37 proceeding for the purposes of receiving additional evidence. Such
38 reconsideration shall be conducted expeditiously. The council shall
39 resubmit the draft certification to the governor incorporating any
40 amendments deemed necessary upon reconsideration. Within 60 days of~~

1 receipt of such draft certification agreement, the governor shall
2 either approve the application and execute the certification
3 agreement or reject the application.) The certification agreement
4 shall be binding upon execution by the ((governor)) council and the
5 applicant.

6 ((4) The rejection of an application for certification by the
7 governor shall be final as to that application but shall not preclude
8 submission of a subsequent application for the same site on the basis
9 of changed conditions or new information.))

10 **Sec. 8.** RCW 80.50.105 and 1991 c 200 s 1112 are each amended to
11 read as follows:

12 In making its ((recommendations to the governor)) decision under
13 this chapter regarding an application that includes transmission
14 facilities for petroleum products, the council shall give appropriate
15 weight to city or county facility siting standards adopted for the
16 protection of sole source aquifers.

17 **Sec. 9.** RCW 80.50.130 and 1970 ex.s. c 45 s 13 are each amended
18 to read as follows:

19 Any certification may be revoked or suspended:

20 (1) For any material false statement in the application or in the
21 supplemental or additional statements of fact or studies required of
22 the applicant when a true answer would have warranted the council's
23 refusal to ((recommend)) approve certification in the first instance;
24 or

25 (2) For failure to comply with the terms or conditions of the
26 original certification; or

27 (3) For violation of the provisions of this chapter, regulations
28 issued thereunder or order of the council.

29 **Sec. 10.** RCW 80.50.330 and 2007 c 325 s 3 are each amended to
30 read as follows:

31 (1) For applications to site electrical transmission facilities,
32 the council shall conduct a preapplication process pursuant to rules
33 adopted by the council to govern such process, receive applications
34 as prescribed in RCW 80.50.071, and conduct public meetings pursuant
35 to RCW 80.50.090.

1 (2) The council shall consider and may (~~recommend~~) approve
2 certification of electrical transmission facilities in corridors
3 designated for this purpose by affected cities, towns, or counties:

4 (a) Where the jurisdictions have identified electrical
5 transmission facility corridors as part of their land use plans and
6 zoning maps based on policies adopted in their plans;

7 (b) Where the proposed electrical transmission facility is
8 consistent with any adopted development regulations that govern the
9 siting of electrical transmission facilities in such corridors; and

10 (c) Where contiguous jurisdictions and jurisdictions in which
11 related regional electrical transmission facilities are located have
12 either prior to or during the preapplication process undertaken good
13 faith efforts to coordinate the locations of their corridors
14 consistent with RCW 36.70A.100.

15 (3)(a) In the absence of a corridor designation in the manner
16 prescribed in subsection (2) of this section, the council shall as
17 part of the preapplication process require the preapplicant to
18 negotiate, as provided by rule adopted by the council, for a
19 reasonable time with affected cities, towns, and counties to attempt
20 to reach agreement about a corridor plan. The application for
21 certification shall identify only the corridor agreed to by the
22 applicant and cities, towns, and counties within the proposed
23 corridor pursuant to the preapplication process.

24 (b) If no corridor plan is agreed to by the applicant and cities,
25 towns, and counties pursuant to (a) of this subsection, the applicant
26 shall propose a recommended corridor and electrical transmission
27 facilities to be included within the proposed corridor.

28 (c) The council shall consider the applicant's proposed corridor
29 and electrical transmission facilities as provided in RCW 80.50.090
30 (2) and (~~(4)~~) (6), and shall make a (~~recommendation~~) decision
31 consistent with RCW 80.50.090 and 80.50.100.

32 **Sec. 11.** RCW 70A.15.3130 and 2020 c 20 s 1110 are each amended
33 to read as follows:

34 (1) The department of health shall have all the enforcement
35 powers as provided in RCW 70A.15.3010, 70A.15.3140, 70A.15.3150,
36 70A.15.3160 (1) through (7), and 70A.15.3170 with respect to
37 emissions of radionuclides. This section does not preclude the
38 department of ecology from exercising its authority under this
39 chapter.

1 (2) Permits for energy facilities subject to chapter 80.50 RCW
2 shall be issued by the energy facility site evaluation council.
3 However, the permits become effective only if the (~~governor~~) energy
4 facility site evaluation council approves an application for
5 certification and executes a certification agreement under chapter
6 80.50 RCW. The council shall have all powers necessary to administer
7 an operating permits program pertaining to such facilities,
8 consistent with applicable air quality standards established by the
9 department or local air pollution control authorities, or both, and
10 to obtain the approval of the United States environmental protection
11 agency. The council's powers include, but are not limited to, all of
12 the enforcement powers provided in RCW 70A.15.3010, 70A.15.3140,
13 70A.15.3150, 70A.15.3160 (1) through (7), and 70A.15.3170 with
14 respect to permit program sources required to obtain certification
15 from the council under chapter 80.50 RCW. To the extent not covered
16 under RCW 80.50.071, the council may collect fees as granted to
17 delegated local air authorities under RCW 70A.15.2210, 70A.15.2260
18 (14) and (15), 70A.15.2270, and 70A.15.2230(7) with respect to permit
19 program sources required to obtain certification from the council
20 under chapter 80.50 RCW. The council and the department shall each
21 establish procedures that provide maximum coordination and avoid
22 duplication between the two agencies in carrying out the requirements
23 of this chapter.

24 **Sec. 12.** RCW 80.70.020 and 2004 c 224 s 2 are each amended to
25 read as follows:

26 (1) The provisions of this chapter apply to:

27 (a) New fossil-fueled thermal electric generation facilities with
28 station-generating capability of (~~three hundred fifty thousand~~)
29 350,000 kilowatts or more and fossil-fueled floating thermal electric
30 generation facilities of (~~one hundred thousand~~) 100,000 kilowatts
31 or more under RCW 80.50.020(14) (~~(a)~~) (b), for which an application
32 for site certification is made to the council after July 1, 2004;

33 (b) New fossil-fueled thermal electric generation facilities with
34 station-generating capability of more than (~~twenty-five thousand~~)
35 25,000 kilowatts, but less than (~~three hundred fifty thousand~~)
36 350,000 kilowatts, except for fossil-fueled floating thermal electric
37 generation facilities under the council's jurisdiction, for which an
38 application for an order of approval has been submitted after July 1,
39 2004;

1 (c) Fossil-fueled thermal electric generation facilities with
2 station-generating capability of (~~three hundred fifty thousand~~)
3 350,000 kilowatts or more that have an existing site certification
4 agreement and, after July 1, 2004, apply to the council to increase
5 the output of carbon dioxide emissions by (~~fifteen~~) 15 percent or
6 more through permanent changes in facility operations or modification
7 or equipment; and

8 (d) Fossil-fueled thermal electric generation facilities with
9 station-generating capability of more than (~~twenty five thousand~~)
10 25,000 kilowatts, but less than (~~three hundred fifty thousand~~)
11 350,000 kilowatts, except for fossil-fueled floating thermal electric
12 generation facilities under the council's jurisdiction, that have an
13 existing order of approval and, after July 1, 2004, apply to the
14 department or authority, as appropriate, to permanently modify the
15 facility so as to increase its station-generating capability by at
16 least (~~twenty five thousand~~) 25,000 kilowatts or to increase the
17 output of carbon dioxide emissions by (~~fifteen~~) 15 percent or more,
18 whichever measure is greater.

19 (2) (a) A (~~proposed~~) site certification agreement (~~submitted to~~
20 ~~the governor under RCW 80.50.100 and a final site certification~~
21 ~~agreement issued~~) approved under RCW 80.50.100 shall include an
22 approved carbon dioxide mitigation plan.

23 (b) For fossil-fueled thermal electric generation facilities not
24 under jurisdiction of the council, the order of approval shall
25 require an approved carbon dioxide mitigation plan.

26 (c) Site certification agreement holders or order of approval
27 holders may request, at any time, a change in conditions of an
28 approved carbon dioxide mitigation plan if the council, department,
29 or authority, as appropriate, finds that the change meets all
30 requirements and conditions for approval of such plans.

31 (3) An applicant for a fossil-fueled thermal electric generation
32 facility shall include one or a combination of the following carbon
33 dioxide mitigation options as part of its mitigation plan:

34 (a) Payment to a third party to provide mitigation;

35 (b) Direct purchase of permanent carbon credits; or

36 (c) Investment in applicant-controlled carbon dioxide mitigation
37 projects, including combined heat and power (cogeneration).

38 (4) Fossil-fueled thermal electric generation facilities that
39 receive site certification approval or an order of approval shall

1 provide mitigation for (~~twenty~~) 20 percent of the total carbon
2 dioxide emissions produced by the facility.

3 (5) If the certificate holder or order of approval holder chooses
4 to pay a third party to provide the mitigation, the mitigation rate
5 shall be (~~one dollar and sixty cents~~) \$1.60 per metric ton of
6 carbon dioxide to be mitigated. For a cogeneration plant, the
7 monetary amount is based on the difference between (~~twenty~~) 20
8 percent of the total carbon dioxide emissions and the cogeneration
9 credit.

10 (a) Through rule making, the council may adjust the rate per ton
11 biennially as long as any increase or decrease does not exceed
12 (~~fifty~~) 50 percent of the current rate. The department or authority
13 shall use the adjusted rate established by the council pursuant to
14 this subsection for fossil-fueled thermal electric generation
15 facilities subject to the provisions of this chapter.

16 (b) In adjusting the mitigation rate the council shall consider,
17 but is not limited to, the current market price of a ton of carbon
18 dioxide. The council's adjusted mitigation rate shall be consistent
19 with RCW 80.50.010(~~(+3)~~) (4).

20 (6) The applicant may choose to make to the third party a lump
21 sum payment or partial payment over a period of five years.

22 (a) Under the lump sum payment option, the payment amount is
23 determined by multiplying the total carbon dioxide emissions by the
24 twenty percent mitigation requirement under subsection (4) of this
25 section and by the per ton mitigation rate established under
26 subsection (5) of this section.

27 (b) No later than (~~one hundred twenty~~) 120 days after the start
28 of commercial operation, the certificate holder or order of approval
29 holder shall make a one-time payment to the independent qualified
30 organization for the amount determined under subsection (5) of this
31 section.

32 (c) As an alternative to a one-time payment, the certificate
33 holder or order of approval holder may make a partial payment of
34 (~~twenty~~) 20 percent of the amount determined under subsection (5)
35 of this section no later than (~~one hundred twenty~~) 120 days after
36 commercial operation and a payment in the same amount or as adjusted
37 according to subsection (5)(a) of this section, on the anniversary
38 date of the initial payment in each of the following four years. With
39 the initial payment, the certificate holder or order of approval
40 holder shall provide a letter of credit or other comparable security

1 acceptable to the council or the department for the remaining
2 ((eighty)) 80 percent mitigation payment amount including possible
3 changes to the rate per metric ton from rule making under subsection
4 (5)(a) of this section.

5 **Sec. 13.** RCW 80.80.040 and 2011 c 180 s 103 are each amended to
6 read as follows:

7 (1) Beginning July 1, 2008, the greenhouse gas emissions
8 performance standard for all baseload electric generation for which
9 electric utilities enter into long-term financial commitments on or
10 after such date is the lower of:

11 (a) One thousand one hundred pounds of greenhouse gases per
12 megawatt-hour; or

13 (b) The average available greenhouse gas emissions output as
14 determined under RCW 80.80.050.

15 (2) This chapter does not apply to long-term financial
16 commitments with the Bonneville power administration.

17 (3)(a) Except as provided in (c) of this subsection, all baseload
18 electric generation facilities in operation as of June 30, 2008, are
19 deemed to be in compliance with the greenhouse gas emissions
20 performance standard established under this section until the
21 facilities are the subject of long-term financial commitments.

22 (b) All baseload electric generation that commences operation
23 after June 30, 2008, and is located in Washington, must comply with
24 the greenhouse gas emissions performance standard established in
25 subsection (1) of this section.

26 (c)(i) A coal-fired baseload electric generation facility in
27 Washington that emitted more than ((one million)) 1,000,000 tons of
28 greenhouse gases in any calendar year prior to 2008 must comply with
29 the lower of the following greenhouse gas emissions performance
30 standard such that one generating boiler is in compliance by December
31 31, 2020, and any other generating boiler is in compliance by
32 December 31, 2025:

33 (A) One thousand one hundred pounds of greenhouse gases per
34 megawatt-hour; or

35 (B) The average available greenhouse gas emissions output as
36 determined under RCW 80.80.050.

37 (ii) This subsection (3)(c) does not apply to a coal-fired
38 baseload electric ((generating [generation])) generation facility in
39 the event the department determines as a requirement of state or

1 federal law or regulation that selective catalytic reduction
2 technology must be installed on any of its boilers.

3 (4) All electric generation facilities or power plants powered
4 exclusively by renewable resources, as defined in RCW 19.280.020, are
5 deemed to be in compliance with the greenhouse gas emissions
6 performance standard established under this section.

7 (5) All cogeneration facilities in the state that are fueled by
8 natural gas or waste gas or a combination of the two fuels, and that
9 are in operation as of June 30, 2008, are deemed to be in compliance
10 with the greenhouse gas emissions performance standard established
11 under this section until the facilities are the subject of a new
12 ownership interest or are upgraded.

13 (6) In determining the rate of emissions of greenhouse gases for
14 baseload electric generation, the total emissions associated with
15 producing electricity shall be included.

16 (7) In no case shall a long-term financial commitment be
17 determined to be in compliance with the greenhouse gas emissions
18 performance standard if the commitment includes more than (~~twelve~~)
19 12 percent of electricity from unspecified sources.

20 (8) For a long-term financial commitment with multiple power
21 plants, each specified power plant must be treated individually for
22 the purpose of determining the annualized plant capacity factor and
23 net emissions, and each power plant must comply with subsection (1)
24 of this section, except as provided in subsections (3) through (5) of
25 this section.

26 (9) The department shall establish an output-based methodology to
27 ensure that the calculation of emissions of greenhouse gases for a
28 cogeneration facility recognizes the total usable energy output of
29 the process, and includes all greenhouse gases emitted by the
30 facility in the production of both electrical and thermal energy. In
31 developing and implementing the greenhouse gas emissions performance
32 standard, the department shall consider and act in a manner
33 consistent with any rules adopted pursuant to the public utilities
34 regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

35 (10) The following greenhouse gas emissions produced by baseload
36 electric generation owned or contracted through a long-term financial
37 commitment shall not be counted as emissions of the power plant in
38 determining compliance with the greenhouse gas emissions performance
39 standard:

1 (a) Those emissions that are injected permanently in geological
2 formations;

3 (b) Those emissions that are permanently sequestered by other
4 means approved by the department; and

5 (c) Those emissions sequestered or mitigated as approved under
6 subsection (16) of this section.

7 (11) In adopting and implementing the greenhouse gas emissions
8 performance standard, the department of commerce energy policy
9 division, in consultation with the commission, the department, the
10 Bonneville power administration, the western electricity coordinating
11 council, the energy facility site evaluation council, electric
12 utilities, public interest representatives, and consumer
13 representatives, shall consider the effects of the greenhouse gas
14 emissions performance standard on system reliability and overall
15 costs to electricity customers.

16 (12) In developing and implementing the greenhouse gas emissions
17 performance standard, the department shall, with assistance of the
18 commission, the department of commerce energy policy division, and
19 electric utilities, and to the extent practicable, address long-term
20 purchases of electricity from unspecified sources in a manner
21 consistent with this chapter.

22 (13) The directors of the energy facility site evaluation council
23 and the department shall each adopt rules under chapter 34.05 RCW in
24 coordination with each other to implement and enforce the greenhouse
25 gas emissions performance standard. The rules necessary to implement
26 this section shall be adopted by June 30, 2008.

27 (14) In adopting the rules for implementing this section, the
28 energy facility site evaluation council and the department shall
29 include criteria to be applied in evaluating the carbon sequestration
30 plan, for baseload electric generation that will rely on subsection
31 (10) of this section to demonstrate compliance, but that will
32 commence sequestration after the date that electricity is first
33 produced. The rules shall include but not be limited to:

34 (a) Provisions for financial assurances, as a condition of plant
35 operation, sufficient to ensure successful implementation of the
36 carbon sequestration plan, including construction and operation of
37 necessary equipment, and any other significant costs;

38 (b) Provisions for geological or other approved sequestration
39 commencing within five years of plant operation, including full and

1 sufficient technical documentation to support the planned
2 sequestration;

3 (c) Provisions for monitoring the effectiveness of the
4 implementation of the sequestration plan;

5 (d) Penalties for failure to achieve implementation of the plan
6 on schedule;

7 (e) Provisions for an owner to purchase emissions reductions in
8 the event of the failure of a sequestration plan under subsection
9 (16) of this section; and

10 (f) Provisions for public notice and comment on the carbon
11 sequestration plan.

12 (15)(a) Except as provided in (b) of this subsection, as part of
13 its role enforcing the greenhouse gas emissions performance standard,
14 the department shall determine whether sequestration or a plan for
15 sequestration will provide safe, reliable, and permanent protection
16 against the greenhouse gases entering the atmosphere from the power
17 plant and all ancillary facilities.

18 (b) For facilities under its jurisdiction, the energy facility
19 site evaluation council shall contract for review of sequestration or
20 the carbon sequestration plan with the department consistent with the
21 conditions under (a) of this subsection, consider the adequacy of
22 sequestration or the plan in its adjudicative proceedings conducted
23 under RCW 80.50.090(~~(+3)~~) (4), and incorporate specific findings
24 regarding adequacy (~~in its recommendation to the governor under RCW~~
25 ~~80.50.100~~)).

26 (16) A project under consideration by the energy facility site
27 evaluation council by July 22, 2007, is required to include all of
28 the requirements of subsection (14) of this section in its carbon
29 sequestration plan submitted as part of the energy facility site
30 evaluation council process. A project under consideration by the
31 energy facility site evaluation council by July 22, 2007, that
32 receives final site certification agreement approval under chapter
33 80.50 RCW shall make a good faith effort to implement the
34 sequestration plan. If the project owner determines that
35 implementation is not feasible, the project owner shall submit
36 documentation of that determination to the energy facility site
37 evaluation council. The documentation shall demonstrate the steps
38 taken to implement the sequestration plan and evidence of the
39 technological and economic barriers to successful implementation. The
40 project owner shall then provide to the energy facility site

1 evaluation council notification that they shall implement the plan
2 that requires the project owner to meet the greenhouse gas emissions
3 performance standard by purchasing verifiable greenhouse gas
4 emissions reductions from an electric generation facility located
5 within the western interconnection, where the reduction would not
6 have occurred otherwise or absent this contractual agreement, such
7 that the sum of the emissions reductions purchased and the facility's
8 emissions meets the standard for the life of the facility.

9 **Sec. 14.** RCW 90.48.262 and 1975-'76 2nd ex.s. c 108 s 41 are
10 each amended to read as follows:

11 (1) The powers established under RCW 90.48.260 shall be
12 implemented by the department through the adoption of rules in every
13 appropriate situation. The permit program authorized under RCW
14 90.48.260(1)(a) shall constitute a continuation of the established
15 permit program of RCW 90.48.160 and other applicable sections within
16 chapter 90.48 RCW. The appropriate modifications as authorized in
17 (~~this~~) chapter 155, Laws of 1973 (~~(amendatory act)~~) are designed to
18 avoid duplication and other wasteful practices and to insure that the
19 state permit program contains all required elements of and is
20 compatible with the requirements of any national permit system.

21 (2) Permits for energy facilities subject to chapter 80.50 RCW
22 shall be issued by the energy facility site evaluation council:
23 PROVIDED, That such permits shall become effective only if the
24 (~~governor~~) council approves an application for certification and
25 executes a certification agreement pursuant to said chapter. The
26 council shall have all powers necessary to establish and administer a
27 point source discharge permit program pertaining to such plants,
28 consistent with applicable receiving water quality standards
29 established by the department, and to qualify for full participation
30 in any national waste discharge or pollution discharge elimination
31 permit system. The council and the department shall each adopt, by
32 rules, procedures which will provide maximum coordination and avoid
33 duplication between the two agencies with respect to permits in
34 carrying out the requirements of (~~this act~~) chapter 155, Laws of
35 1973 including, but not limited to, monitoring and enforcement of
36 certification agreements, and in qualifying for full participation in
37 any such national system.

1 **Sec. 15.** RCW 90.58.140 and 2019 c 225 s 1 are each amended to
2 read as follows:

3 (1) A development shall not be undertaken on the shorelines of
4 the state unless it is consistent with the policy of this chapter
5 and, after adoption or approval, as appropriate, the applicable
6 guidelines, rules, or master program.

7 (2) A substantial development shall not be undertaken on
8 shorelines of the state without first obtaining a permit from the
9 government entity having administrative jurisdiction under this
10 chapter.

11 A permit shall be granted:

12 (a) From June 1, 1971, until such time as an applicable master
13 program has become effective, only when the development proposed is
14 consistent with: (i) The policy of RCW 90.58.020; and (ii) after
15 their adoption, the guidelines and rules of the department; and (iii)
16 so far as can be ascertained, the master program being developed for
17 the area;

18 (b) After adoption or approval, as appropriate, by the department
19 of an applicable master program, only when the development proposed
20 is consistent with the applicable master program and this chapter.

21 (3) The local government shall establish a program, consistent
22 with rules adopted by the department, for the administration and
23 enforcement of the permit system provided in this section. The
24 administration of the system so established shall be performed
25 exclusively by the local government.

26 (4) Except as otherwise specifically provided in subsection (11)
27 of this section, the local government shall require notification of
28 the public of all applications for permits governed by any permit
29 system established pursuant to subsection (3) of this section by
30 ensuring that notice of the application is given by at least one of
31 the following methods:

32 (a) Mailing of the notice to the latest recorded real property
33 owners as shown by the records of the county assessor within at least
34 (~~three hundred~~) 300 feet of the boundary of the property upon which
35 the substantial development is proposed;

36 (b) Posting of the notice in a conspicuous manner on the property
37 upon which the project is to be constructed; or

38 (c) Any other manner deemed appropriate by local authorities to
39 accomplish the objectives of reasonable notice to adjacent landowners
40 and the public.

1 The notices shall include a statement that any person desiring to
2 submit written comments concerning an application, or desiring to
3 receive notification of the final decision concerning an application
4 as expeditiously as possible after the issuance of the decision, may
5 submit the comments or requests for decisions to the local government
6 within (~~(thirty)~~) 30 days of the last date the notice is to be
7 published pursuant to this subsection. The local government shall
8 forward, in a timely manner following the issuance of a decision, a
9 copy of the decision to each person who submits a request for the
10 decision.

11 If a hearing is to be held on an application, notices of such a
12 hearing shall include a statement that any person may submit oral or
13 written comments on an application at the hearing.

14 (5) The system shall include provisions to assure that
15 construction pursuant to a permit will not begin or be authorized
16 until (~~(twenty-one)~~) 21 days from the date the permit decision was
17 filed as provided in subsection (6) of this section; or until all
18 review proceedings are terminated if the proceedings were initiated
19 within (~~(twenty-one)~~) 21 days from the date of filing as defined in
20 subsection (6) of this section except as follows:

21 (a) In the case of any permit issued to the state of Washington,
22 department of transportation, for the construction and modification
23 of SR 90 (I-90) on or adjacent to Lake Washington, the construction
24 may begin after thirty days from the date of filing, and the permits
25 are valid until December 31, 1995;

26 (b) (i) In the case of any permit or decision to issue any permit
27 to the state of Washington, department of transportation, for the
28 replacement of the floating bridge and landings of the state route
29 number 520 Evergreen Point bridge on or adjacent to Lake Washington,
30 the construction may begin (~~(twenty-one)~~) 21 days from the date of
31 filing. Any substantial development permit granted for the floating
32 bridge and landings is deemed to have been granted on the date that
33 the local government's decision to grant the permit is issued. This
34 authorization to construct is limited to only those elements of the
35 floating bridge and landings that do not preclude the department of
36 transportation's selection of a four-lane alternative for state route
37 number 520 between Interstate 5 and Medina. Additionally, the
38 Washington state department of transportation shall not engage in or
39 contract for any construction on any portion of state route number
40 520 between Interstate 5 and the western landing of the floating

1 bridge until the legislature has authorized the imposition of tolls
2 on the Interstate 90 floating bridge and/or other funding sufficient
3 to complete construction of the state route number 520 bridge
4 replacement and HOV program. For the purposes of this subsection
5 (5)(b), the "western landing of the floating bridge" means the least
6 amount of new construction necessary to connect the new floating
7 bridge to the existing state route number 520 and anchor the west end
8 of the new floating bridge;

9 (ii) Nothing in this subsection (5)(b) precludes the shorelines
10 hearings board from concluding that the project or any element of the
11 project is inconsistent with the goals and policies of the shoreline
12 management act or the local shoreline master program;

13 (iii) This subsection (5)(b) applies retroactively to any appeals
14 filed after January 1, 2012, and to any appeals filed on or after
15 March 23, 2012, and expires June 30, 2014;

16 (c)(i) In the case of permits for projects addressing significant
17 public safety risks, as defined by the department of transportation,
18 it is not in the public interest to delay construction until all
19 review proceedings are terminated. In the case of any permit issued
20 under this chapter or decision to issue any permit under this chapter
21 for a transportation project of the Washington state department of
22 transportation, construction may begin (~~(twenty-one)~~) 21 days after
23 the date of filing if all components of the project achieve a no net
24 loss of shoreline ecological functions, as defined by department
25 guidelines adopted pursuant to RCW 90.58.060 and as determined
26 through the following process:

27 (A) The department of transportation, as part of the permit
28 review process, must provide the local government with an assessment
29 of how the project affects shoreline ecological functions. The
30 assessment must include specific actions for avoiding, minimizing,
31 and mitigating impacts to shoreline ecological functions, developed
32 in consultation with the department, that ensure there is no net loss
33 of shoreline ecological functions; and

34 (B) The local government, after reviewing the assessment required
35 in (c)(i)(A) of this subsection and prior to the final issuance of
36 all appropriate shoreline permits and variances, must determine that
37 the project will result in no net loss of shoreline ecological
38 functions.

39 (ii) Nothing in this subsection (5)(c) precludes the shorelines
40 hearings board from concluding that the shoreline project or any

1 element of the project is inconsistent with this chapter, the local
2 shoreline master program, chapter 43.21C RCW and its implementing
3 regulations, or the applicable shoreline regulations.

4 (iii) This subsection (5)(c) does not apply to permit decisions
5 for the replacement of the floating bridge and landings of the state
6 route number 520 Evergreen Point bridge on or adjacent to Lake
7 Washington;

8 (d) Except as authorized in (b) and (c) of this subsection,
9 construction may be commenced no sooner than (~~(thirty)~~) 30 days after
10 the date of the appeal of the board's decision is filed if a permit
11 is granted by the local government and (i) the granting of the permit
12 is appealed to the shorelines hearings board within (~~(twenty-one)~~) 21
13 days of the date of filing, (ii) the hearings board approves the
14 granting of the permit by the local government or approves a portion
15 of the substantial development for which the local government issued
16 the permit, and (iii) an appeal for judicial review of the hearings
17 board decision is filed pursuant to chapter 34.05 RCW. The appellant
18 may request, within (~~(ten)~~) 10 days of the filing of the appeal with
19 the court, a hearing before the court to determine whether
20 construction pursuant to the permit approved by the hearings board or
21 to a revised permit issued pursuant to the order of the hearings
22 board should not commence. If, at the conclusion of the hearing, the
23 court finds that construction pursuant to such a permit would involve
24 a significant, irreversible damaging of the environment, the court
25 shall prohibit the permittee from commencing the construction
26 pursuant to the approved or revised permit until all review
27 proceedings are final. Construction pursuant to a permit revised at
28 the direction of the hearings board may begin only on that portion of
29 the substantial development for which the local government had
30 originally issued the permit, and construction pursuant to such a
31 revised permit on other portions of the substantial development may
32 not begin until after all review proceedings are terminated. In such
33 a hearing before the court, the burden of proving whether the
34 construction may involve significant irreversible damage to the
35 environment and demonstrating whether such construction would or
36 would not be appropriate is on the appellant;

37 (e) Except as authorized in (b) and (c) of this subsection, if
38 the permit is for a substantial development meeting the requirements
39 of subsection (11) of this section, construction pursuant to that
40 permit may not begin or be authorized until (~~(twenty-one)~~) 21 days

1 from the date the permit decision was filed as provided in subsection
2 (6) of this section.

3 If a permittee begins construction pursuant to (a), (b), (c),
4 (d), or (e) of this subsection, the construction is begun at the
5 permittee's own risk. If, as a result of judicial review, the courts
6 order the removal of any portion of the construction or the
7 restoration of any portion of the environment involved or require the
8 alteration of any portion of a substantial development constructed
9 pursuant to a permit, the permittee is barred from recovering damages
10 or costs involved in adhering to such requirements from the local
11 government that granted the permit, the hearings board, or any
12 appellant or intervener.

13 (6) Any decision on an application for a permit under the
14 authority of this section, whether it is an approval or a denial,
15 shall, concurrently with the transmittal of the ruling to the
16 applicant, be filed with the department and the attorney general.
17 This shall be accomplished by return receipt requested mail. A
18 petition for review of such a decision must be commenced within
19 (~~twenty-one~~) 21 days from the date of filing of the decision.

20 (a) With regard to a permit other than a permit governed by
21 subsection (10) of this section, "date of filing" as used in this
22 section refers to the date of actual receipt by the department of the
23 local government's decision.

24 (b) With regard to a permit for a variance or a conditional use
25 governed by subsection (10) of this section, "date of filing" means
26 the date the decision of the department is transmitted by the
27 department to the local government.

28 (c) When a local government simultaneously transmits to the
29 department its decision on a shoreline substantial development with
30 its approval of either a shoreline conditional use permit or
31 variance, or both, "date of filing" has the same meaning as defined
32 in (b) of this subsection.

33 (d) The department shall notify in writing the local government
34 and the applicant of the date of filing by telephone or electronic
35 means, followed by written communication as necessary, to ensure that
36 the applicant has received the full written decision.

37 (7) Applicants for permits under this section have the burden of
38 proving that a proposed substantial development is consistent with
39 the criteria that must be met before a permit is granted. In any
40 review of the granting or denial of an application for a permit as

1 provided in RCW 90.58.180 (1) and (2), the person requesting the
2 review has the burden of proof.

3 (8) Any permit may, after a hearing with adequate notice to the
4 permittee and the public, be rescinded by the issuing authority upon
5 the finding that a permittee has not complied with conditions of a
6 permit. If the department is of the opinion that noncompliance
7 exists, the department shall provide written notice to the local
8 government and the permittee. If the department is of the opinion
9 that the noncompliance continues to exist (~~(thirty)~~) 30 days after
10 the date of the notice, and the local government has taken no action
11 to rescind the permit, the department may petition the hearings board
12 for a rescission of the permit upon written notice of the petition to
13 the local government and the permittee if the request by the
14 department is made to the hearings board within (~~(fifteen)~~) 15 days
15 of the termination of the (~~(thirty-day)~~) 30-day notice to the local
16 government.

17 (9) The holder of a certification (~~(from the governor)~~) pursuant
18 to chapter 80.50 RCW shall not be required to obtain a permit under
19 this section.

20 (10) Any permit for a variance or a conditional use issued with
21 approval by a local government under their approved master program
22 must be submitted to the department for its approval or disapproval.

23 (11)(a) An application for a substantial development permit for a
24 limited utility extension or for the construction of a bulkhead or
25 other measures to protect a single-family residence and its
26 appurtenant structures from shoreline erosion shall be subject to the
27 following procedures:

28 (i) The public comment period under subsection (4) of this
29 section shall be (~~(twenty)~~) 20 days. The notice provided under
30 subsection (4) of this section shall state the manner in which the
31 public may obtain a copy of the local government decision on the
32 application no later than two days following its issuance;

33 (ii) The local government shall issue its decision to grant or
34 deny the permit within (~~(twenty-one)~~) 21 days of the last day of the
35 comment period specified in (a)(i) of this subsection; and

36 (iii) If there is an appeal of the decision to grant or deny the
37 permit to the local government legislative authority, the appeal
38 shall be finally determined by the legislative authority within
39 thirty days.

1 (b) For purposes of this section, a limited utility extension
2 means the extension of a utility service that:

3 (i) Is categorically exempt under chapter 43.21C RCW for one or
4 more of the following: Natural gas, electricity, telephone, water, or
5 sewer;

6 (ii) Will serve an existing use in compliance with this chapter;
7 and

8 (iii) Will not extend more than (~~twenty-five hundred~~) 2,500
9 linear feet within the shorelines of the state.

10 (12) A permit under this section is not required in order to
11 dispose of dredged materials at a disposal site approved through the
12 cooperative planning process referenced in RCW 79.105.500, provided
13 the dredged material disposal proponent obtains a valid site use
14 authorization from the dredged material management program office
15 within the department of natural resources.

16 NEW SECTION. **Sec. 16.** RCW 80.50.320 (Governor to evaluate
17 council efficiency, make recommendations) and 2001 c 214 s 8 are each
18 repealed.

--- END ---