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**SENATE BILL 5241**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Lias and Boehnke; by request of Energy Facilities Siting and Evaluation Council

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

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

5 **Sec. 1.** RCW 80.50.020 and 2022 c 183 s 2 are each reenacted and  
6 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

39 (e) Equipment and products used at storage facilities.

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

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

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

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

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

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

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

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

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

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

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

35 (c) Facilities which will have the capacity to receive liquefied  
36 natural gas in the equivalent of more than (~~one hundred million~~)  
37 100,000,000 standard cubic feet of natural gas per day, which has  
38 been transported over marine waters;

39 (d) Facilities which will have the capacity to receive more than  
40 an average of (~~fifty thousand~~) 50,000 barrels per day of crude or

1 refined petroleum or liquefied petroleum gas which has been or will  
2 be transported over marine waters, except that the provisions of this  
3 chapter shall not apply to storage facilities unless occasioned by  
4 such new facility construction;

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

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

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

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

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

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

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

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

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

38 (21) "Preapplication process" means the process which is  
39 initiated by written correspondence from the preapplicant to the  
40 council, and includes the process adopted by the council for

1 consulting with the preapplicant and with federally recognized  
2 tribes, cities, towns, and counties prior to accepting applications  
3 for any facility.

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

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

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

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

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

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

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

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

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

37 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas  
38 transmission pipeline of the following dimensions: A pipeline larger  
39 than (~~fourteen~~) 14 inches minimum inside diameter between valves,  
40 for the transmission of these products, with a total length of at

1 least (~~fifteen~~) 15 miles for the purpose of delivering gas to a  
2 distribution facility, except an interstate natural gas pipeline  
3 regulated by the United States federal energy regulatory commission.

4 (30) "Zoning ordinance" means an ordinance of a unit of local  
5 government regulating the use of land and adopted pursuant to chapter  
6 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state  
7 Constitution, or as otherwise designated by chapter 325, Laws of  
8 2007.

9 **Sec. 2.** RCW 80.50.060 and 2023 c 229 s 4 are each amended to  
10 read as follows:

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

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

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

26 (ii) Alternative energy resource facilities;

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

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

32 (v) Storage facilities; and

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

37 (c) All of the council's powers with regard to energy facilities  
38 apply to all of the facilities in (b) of this subsection and these

1 facilities are subject to all provisions of this chapter that apply  
2 to an energy facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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