

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1032
(Legislative Council)
(Energy Development and Transmission Committee)

AN ACT to amend and reenact subsections 3 and 12 of section 49-22-03 of the North Dakota Century Code, relating to the energy conversion and transmission facility siting definitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 12 of section 49-22-03 of the North Dakota Century Code are amended and reenacted as follows:

3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities ~~incident~~:

a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter or on which a facility was constructed before April 9, 1975, if:

(1) The activities are within the boundaries of:

(a) A previously issued certificate or permit;

(b) For an energy conversion facility constructed before April 9, 1975, the geographic location on which the facility was built; or

(c) For a transmission facility constructed before April 9, 1975, a width of three hundred fifty feet [106.68 meters] on either side of the centerline;

(2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area; and

(3) Before conducting any activities, the utility certifies in writing to the commission that the activities will not affect any known exclusion or avoidance area and the utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.

b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:

(1) Certifies in writing to the commission that:

(a) The activities will not affect any known exclusion area; and

(b) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;

(2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and

(3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.

c. Incident to preliminary engineering or environmental studies.

12. "Transmission facility" means any of the following:

a. An electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Transmission facility" does not include a:

(1) A temporary transmission line loop that is:

(+) (a) Connected and adjacent to an existing transmission facility that was sited under this chapter;

(+) (b) Within the corridor of the sited facility and does not cross known exclusion or avoidance areas; and

(+) (c) Less in place for less than one year; or

(2) A transmission line that is less than one mile [1.61 kilometers] long; and

(+) In place for less than one year.

b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. This subdivision does not apply to a:

(1) An oil or gas pipeline gathering system;

(2) A pipeline with an outside diameter of four and one-half inches [11.43 centimeters] or less that will be not trenched and will be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and its associated facilities; or

(3) A pipeline that is less than one mile [1.61 kilometers] long.

For purposes of this chapter, a gathering system includes the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility at which end-use consumer-quality gas is produced, with or without the addition of odorant.

c. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1032.

House Vote: Yeas 94 Nays 0 Absent 0

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State