

1 *Cole* House BILL NO. 441  
 2 INTRODUCED BY *Taylor Storall Jr.*  
 3 *W. Hanson Barnett - Marshall* *Timothy Munderick* *Holland*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF A FACILITY UNDER THE  
 5 MONTANA MAJOR FACILITY SITING ACT; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN  
 6 IMMEDIATE EFFECTIVE DATE."

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 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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 10 **Section 1.** Section 75-20-104, MCA, is amended to read:

11 **"75-20-104. Definitions.** In this chapter, unless the context requires otherwise, the following  
 12 definitions apply:

13 (1) "Addition thereto" means the installation of new machinery and equipment ~~which~~ that would  
 14 significantly change the conditions under which the facility is operated.

15 (2) "Application" means an application for a certificate submitted in accordance with this chapter  
 16 and the rules adopted ~~hereunder~~ under this chapter.

17 (3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts,  
 18 diversion dams, pipelines, transmission substations, storage ponds, reservoirs, and any other device or  
 19 equipment associated with the production or delivery of the energy form or product produced by a facility,  
 20 except that the term does not include a facility or a natural gas or crude oil gathering line 17 inches or less  
 21 in inside diameter.

22 (4) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

23 (5) "Board of health" means the board of health and environmental sciences provided for in  
 24 2-15-2104.

25 (6) "Certificate" means the certificate of environmental compatibility and public need issued by the  
 26 board under this chapter that is required for the construction or operation of a facility.

27 (7) "Commence to construct" means:

28 (a) any clearing of land, excavation, construction, or other action that would affect the environment  
 29 of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for  
 30 nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation

1 conditions;

2 (b) the fracturing of underground formations by any means if ~~such~~ the activity is related to the  
3 possible future development of a gasification facility or a facility employing geothermal resources but does  
4 not include the gathering of geological data by boring of test holes or other underground exploration,  
5 investigation, or experimentation;

6 (c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or  
7 rights-of-way upon or over which a facility may be constructed;

8 (d) the relocation or upgrading of an existing facility defined by ~~(b) or (c) of subsection (10)(b) or~~  
9 (10)(c), including upgrading to a design capacity covered by subsection (10)(b), except that the term does  
10 not include normal maintenance or repair of an existing facility.

11 (8) "Department" means the department of natural resources and conservation provided for in Title  
12 2, chapter 15, part 33.

13 (9) "Department of health" means the department of health and environmental sciences provided  
14 for in Title 2, chapter 15, part 21.

15 (10) "Facility" means:

16 (a) except for crude oil and natural gas refineries and those facilities subject to The Montana Strip  
17 and Underground Mine Reclamation Act, each plant, unit, or other facility and associated facilities designed  
18 for or capable of:

19 (i) generating ~~50~~ 150 megawatts of electricity or more or any addition thereto, ~~(except pollution~~  
20 ~~control facilities approved by the department of health and environmental sciences added to an existing~~  
21 ~~plant) having an estimated cost in excess of \$10 million;~~

22 (ii) producing 25 million cubic feet or more of gas derived from coal per day or any addition thereto  
23 having an estimated cost in excess of \$10 million;

24 (iii) producing 25,000 barrels of liquid hydrocarbon products per day or more or any addition  
25 thereto having an estimated cost in excess of \$10 million; or

26 (iv) enriching uranium minerals or any addition thereto having an estimated cost in excess of \$10  
27 million; ~~or~~

28 ~~(v) utilizing or converting 500,000 tons of coal per year or more or any addition thereto having an~~  
29 ~~estimated cost in excess of \$10 million;~~

30 (b) each electric transmission line and associated facilities of a design capacity of more than 69

1 kilovolts, except that the term:

2 (i) does not include an electric transmission line and associated facilities of a design capacity of  
3 230 kilovolts or less and 10 miles or less in length; and

4 (ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts  
5 and up to and including 115 kilovolts for which the person planning to construct the line has obtained  
6 right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively  
7 own more than 75% of the property along the centerline;

8 (c) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside  
9 diameter and 30 miles in length, and associated facilities;

10 (d) any use of geothermal resources, including the use of underground space in existence or to be  
11 created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally  
12 derived power equivalent to 25 million Btu per hour or more or any addition thereto having an estimated  
13 cost in excess of \$750,000;

14 (e) any underground in situ gasification of coal.

15 (11) "Person" means any individual, group, firm, partnership, corporation, cooperative, association,  
16 government subdivision, government agency, local government, or other organization or entity.

17 (12) "Transmission substation" means any structure, device, or equipment assemblage, commonly  
18 located and designed for voltage regulation, circuit protection, or switching necessary for the construction  
19 or operation of a proposed transmission line.

20 (13) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery,  
21 or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

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23 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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