

Second Regular Session of the 122nd General Assembly (2022)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 271

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-8.5-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 12.1. (a) As used in this section, "small modular nuclear reactor" means a nuclear reactor that:**

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

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

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

SEA 271



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

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

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

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

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

(i) are located in Indiana; and

(ii) use coal or natural gas as a fuel source.

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

(i) make use of any land and existing infrastructure or facilities already owned or under the control of the public utility; or

(ii) create new employment opportunities for workers who have been, or would be, displaced as a result of the retirement of the existing facility.

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

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

(A) the United States Nuclear Regulatory Commission;

(B) the department of environmental management; or

(C) any other relevant state or federal regulatory agency with jurisdiction over the construction or operation of



nuclear generating facilities.

(4) That any:

- (A) reports;**
- (B) notices of violations; or**
- (C) other notifications;**

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

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

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

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

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

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

SECTION 2. IC 8-1-8.8-2, AS AMENDED BY P.L.150-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. As used in this chapter, "clean energy projects" means any of the following:

- (1) Any of the following projects:**
 - (A) Projects at new energy production or generating facilities that employ the use of clean coal technology and that produce energy, including substitute natural gas, primarily from coal, or gases derived from coal, from the geological formation known as the Illinois Basin.**



(B) Projects to provide advanced technologies that reduce regulated air emissions from or increase the efficiency of existing energy production or generating plants that are fueled primarily by coal or gases from coal from the geological formation known as the Illinois Basin, such as flue gas desulfurization and selective catalytic reduction equipment.

(C) Projects to provide electric transmission facilities to serve a new energy production or generating facility or a nuclear energy production or generating facility.

(D) Projects that produce substitute natural gas from Indiana coal by construction and operation of a coal gasification facility.

(E) Projects or potential projects:

(i) **to construct, after June 30, 2023, one (1) or more small modular nuclear reactors in Indiana for the generation of electricity to be directly or indirectly used to furnish public utility service to Indiana customers, or at the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers on July 1, 2011, under rules adopted by the commission under IC 8-1-8.5-12.1; or**

(ii) that enhance the safe and reliable use of nuclear energy production or generating technologies to produce electricity.

(2) Projects to develop alternative energy sources, including renewable energy projects or coal gasification facilities.

(3) The purchase of fuels or energy produced by a coal gasification facility or by a nuclear energy production or generating facility.

(4) Projects described in subdivisions (1) through (2) that use coal bed methane.

SECTION 3. IC 8-1-8.8-8.5, AS ADDED BY P.L.150-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8.5. (a) As used in this chapter, "nuclear energy production or generating facility" means **either of the following**:

(1) an energy production or generation facility that:

(+) (A) uses a nuclear reactor as its heat source to provide steam to a turbine generator to produce or generate electricity;

(-) (B) supplies electricity to Indiana retail customers on July 1, 2011;

(-) (C) is dedicated primarily to serving Indiana customers; and

(+) (D) is undergoing a comprehensive life cycle management



project to enhance the safe and reliable operation of the facility during the period the facility is licensed to operate by the United States Nuclear Regulatory Commission; **or**

(2) a small modular nuclear reactor that is constructed after June 30, 2023:

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

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

under rules adopted by the commission under IC 8-1-8.5-12.1.

(b) The term includes the transmission lines and other associated equipment employed specifically to serve a nuclear energy production or generating facility.

SECTION 4. IC 8-1-8.8-10.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 10.2. (a) As used in this chapter, "small modular nuclear reactor" means a nuclear reactor that:**

(1) has a rated electric generating capacity of not more than three hundred fifty (350) megawatts;

(2) is capable of being constructed and operated, either:

(A) alone; or

(B) in combination with one (1) or more similar reactors if additional reactors are, or become, necessary;

at a single site; and

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

(b) The term includes a nuclear reactor that:

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

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

(A) for energy storage;

(B) as a fuel; or

(C) for other uses.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 271

