

**Sixty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1539  
(Representatives Novak, Grueneich)  
(Senators Erbele, Kessel, Patten)

AN ACT to amend and reenact section 49-22-03 and subdivision e of subsection 1 of section 49-22-22 of the North Dakota Century Code, relating to backup electric generation.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

**49-22-03. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Backup electric generation" means electric generation that is not interconnected with the grid and is generated on a temporary basis to replace primary source electric generation when unavailable.
2. "Certificate" means the certificate of site compatibility or the certificate of corridor compatibility issued under this chapter.
- ~~2.3.~~ "Commission" means the North Dakota public service commission.
- ~~3.4.~~ "Construction" includes a clearing of land, excavation, or other action affecting the environment of the site after April 9, 1975, but does not include activities:
  - 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 for the construction of the same type of facility as the existing type of facility as identified in a subdivision of subsection ~~56~~ or ~~67~~ or in subsection ~~43~~14 of this section and the activities are:
      - (a) Within the geographic boundaries of a previously issued certificate or permit;
      - (b) For an electric energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
      - (c) For an electric transmission facility constructed before April 9, 1975, within 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;
    - (3) The activities are for the construction:
      - (a) Of a new electric energy conversion facility;
      - (b) Of a new electric transmission facility;

- (c) To improve the existing electric energy conversion facility or electric transmission facility; or
    - (d) To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
  - (4) Before conducting any activities, the utility certifies in writing to the commission that:
    - (a) The activities will not affect a known exclusion or avoidance area;
    - (b) The activities are for the construction:
      - [1] Of a new electric energy conversion facility;
      - [2] Of a new electric transmission facility;
      - [3] To improve the existing electric energy conversion or electric transmission facility; or
      - [4] To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
    - (c) 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 a known exclusion area;
    - (b) The activities are for the construction:
      - [1] Of a new electric energy conversion facility;
      - [2] Of a new electric transmission facility;
      - [3] To improve the existing electric energy conversion facility or electric transmission facility; or
      - [4] To increase or decrease the capacity of the existing electric energy conversion facility or electric transmission facility; and
    - (c) 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.

~~4-5.~~ "Corridor" means the area of land where a designated route may be established for an electric transmission facility.

~~5-6.~~ "Electric energy conversion facility" means a plant, addition, or combination of plant and addition, excluding onsite backup electric generation, designed for or capable of:

a. Generation by wind energy conversion exceeding one-half megawatt of electricity;

b. Generation by any means other than wind energy conversion exceeding fifty megawatts of electricity; or

c. Utility-scale energy storage.

~~6-7.~~ "Electric transmission facility" means an electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Electric transmission facility" does not include:

a. A temporary electric transmission line loop that is:

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

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

(3) In place for less than one year; or

b. An electric transmission line that is less than one mile [1.61 kilometers] long.

~~7-8.~~ "Facility" means an electric energy conversion facility, electric transmission facility, or both.

~~8-9.~~ "Permit" means the permit for the construction of an electric transmission facility within a designated corridor issued under this chapter.

~~9-10.~~ "Person" includes an individual, firm, association, partnership, cooperative, corporation, limited liability company, or any department, agency, or instrumentality of a state or of the federal government, or any subdivision thereof.

~~10-11.~~ "Power emergency" means an electric transmission line and associated facilities that have been damaged or destroyed by natural or manmade causes resulting in a loss of power supply to consumers of the power.

~~11-12.~~ "Repower" means construction activities to completely or partially dismantle and replace turbine equipment at an existing wind energy conversion facility site that result in an increase of the facility's generation output potential or turbine height. The term does not include routine turbine maintenance or routine replacement of malfunctioning turbines or turbine components.

~~12-13.~~ "Route" means the location of an electric transmission facility within a designated corridor.

~~13-14.~~ "Site" means the location of an electric energy conversion facility.

~~14-15.~~ "Utility" means a person engaged in and controlling the electric generation, the transmission of electric energy, or the transmission of water from or to any electric energy conversion facility.

~~45-16.~~ "Utility-scale energy storage" means a plant, addition, or combination of plant and addition, designed for operation as a grid resource and capable of five megawatts or more of rated power capacity.

**SECTION 2. AMENDMENT.** Subdivision e of subsection 1 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

- e. An applicant certifying to the commission under subsection ~~34~~ of section 49-22-03 shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.

*Felix Wieg*  
Speaker of the House

*Fred Bakkedal*  
President of the Senate

*Buell J Reich*  
Chief Clerk of the House

*Donald Morgan*  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1539.

House Vote:    Yeas 91            Nays 0            Absent 3

Senate Vote:    Yeas 47            Nays 0            Absent 0

*Buell J Reich*  
Chief Clerk of the House

Received by the Governor at 5:10 p M. on March 18, 2025.

Approved at 12:17 p M. on March 19, 2025.

*[Signature]*  
Governor

Filed in this office this 20<sup>th</sup> day of March, 2025,

at 4:02 o'clock P M.

*William Howe*  
Secretary of State