

FINAL BILL REPORT

SHB 3141

C 224 L 04

Synopsis as Enacted

Brief Description: Establishing a policy to mitigate carbon dioxide emissions.

Sponsors: By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representative Morris).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Natural Resources, Energy & Water

Background:

The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. EFSEC membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. EFSEC membership may include representatives from the particular city, county, or port district where potential projects may be located.

The EFSEC's jurisdiction includes the siting of electric thermal power plants above 350 megawatts. In 2003, the EFSEC released a package of proposed rules designed to set standards for siting electric power plants. One of the proposed rules addresses the mitigation of carbon dioxide (CO₂) emissions resulting from operation of these plants. CO₂ mitigation requirements have been included in all recent siting approvals for electric power plants.

New or expanding industrial and commercial sources of air pollution emissions, including fossil-fueled thermal power plants, must obtain an order of approval from the Department of Ecology (DOE) or a local air pollution control authority. The order may set limits on emissions and require monitoring, record keeping, reporting, and other compliance measures.

The DOE is also developing rules for the mitigation of CO₂ emissions from fossil fueled thermal electric power plants not under the siting jurisdiction of the EFSEC.

Summary:

CO₂ Mitigation Requirements

Fossil-fueled thermal power plants with a generating capacity of 25 megawatts or more must provide mitigation for 20 percent of the CO₂ emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification or an order of approval after July 1, 2004, and existing plants that increase the production of CO₂ emissions by 15 percent or more.

This mitigation requirement applies to thermal power plants under the jurisdiction of the EFSEC, except for floating thermal power plants of 100 megawatt capacity or more. The

requirement also applies to thermal power plants that must seek an order of approval from either the DOE or a local air pollution control authority if the plant has a generating capacity of less than 350 megawatts but more than 24 megawatts.

In determining total CO₂ emissions, the calculation uses a capacity factor of 60 percent or operational limitations contained in the order of approval (for plants not under the jurisdiction of the EFSEC).

For plants that must seek site certification under the EFSEC, a CO₂ mitigation plan must be included in a site certification agreement. For plants that apply for approval from the DOE or an air pollution control authority, an approved CO₂ mitigation plan must be included as part of the order.

CO₂ Mitigation Options

CO₂ may be mitigated by making payment to an independent qualified organization, by direct purchase of permanent carbon credits, or by direct investment in CO₂ mitigation projects.

Payment to a Third Party Option. The rate that must be paid per ton for those CO₂ emissions that must be mitigated is \$1.60. This rate is subject to adjustment. For cogeneration plants, the monetary amount is based on the difference between 20 percent of total carbon dioxide emissions and the cogeneration credit. Payment may be made in a lump sum no later than 60 days prior to the start of construction or in partial payments over five years. Partial payments are paid in equal annual amounts and are also subject to adjustment.

The EFSEC may adjust the per ton rate every two years and any increase or decrease may not exceed 50 percent of the current rate. The DOE or local air pollution control authorities must use the adjusted rate established by the EFSEC.

Carbon Credit Option. Credits must come from real, permanent, verifiable CO₂ mitigation not otherwise required or used for other CO₂ mitigation projects. Credits eligible for mitigation must be acquired after July 1, 2004. Credits may be resold only with the approval of the EFSEC, the DOE, or a local air pollution control authority.

Direct Investment Option. Mitigation projects must be approved by the EFSEC, the DOE, or a local air pollution control authority and must be included in the site certification agreement or the order of approval. Direct investments are limited in amount to no more than the cost of a lump sum payment option. Projects must be in place in a reasonable time after the start of commercial operation. Implementation will be monitored by an independent entity for applicants under the jurisdiction of the EFSEC, and by the DOE or a local air pollution control authority for applicants not under the jurisdiction of the EFSEC, except for carbon credits. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project.

Independent Qualified Organization. The EFSEC must maintain a list of independent qualified organizations. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project. The organization must permit the EFSEC

to appoint three persons to inspect plans, operations, and compliance activities of the organization and audit financial records and performance standards. The organization must file biennial reports with the EFSEC and the DOE.

Mitigation projects under both the payment to a third party option and direct investment option must: (1) provide a reasonable certainty that the performance requirements will be achieved; (2) be implemented after July 1, 2004; (3) minimize the extent to which external events can reduce the amount of CO2 offset; (4) accomplish CO2 reductions that would not otherwise take place; and (5) provide for mitigation of an appropriate duration.

Reasonable and necessary costs for implementing this program must be assessed against the applicants and site certification holders subject to this requirement. The DOE or local air pollution control authority may assess and collect fees to administer this program. The EFSEC, the DOE, and local air pollution control authority may adopt rules to implement the program.

Votes on Final Passage:

House	69	27	
Senate	40	6	(Senate amended)
House	69	26	(House concurred)

Effective: June 10, 2004