
HOUSE BILL 2156

State of Washington 60th Legislature 2007 Regular Session

By Representatives Morris, Kenney, Chase and Ormsby

Read first time 02/12/2007. Referred to Committee on Technology,
Energy & Communications.

1 AN ACT Relating to carbon dioxide mitigation; amending RCW
2 80.70.010 and 80.70.070; and adding new sections to chapter 80.70 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 80.70.010 and 2004 c 224 s 1 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Applicant" has the meaning provided in RCW 80.50.020 and
9 includes an applicant for a permit for a fossil-fueled thermal electric
10 generation facility subject to RCW 70.94.152 and 80.70.020(1) (b) or
11 (d).

12 (2) "Authority" means any air pollution control agency whose
13 jurisdictional boundaries are coextensive with the boundaries of one or
14 more counties.

15 (3) "Baseload generation" means electricity generation from a
16 fossil-fueled power plant that is designed and intended to provide
17 electricity at an annualized plant capacity factor of at least sixty
18 percent.

1 (4) "Carbon credit" means a verified reduction in carbon dioxide or
2 carbon dioxide equivalents that is registered with a state, national,
3 or international trading authority or exchange that has been recognized
4 by the council.

5 ~~((+4))~~ (5) "Carbon dioxide equivalents" means a metric measure
6 used to compare the emissions from various greenhouse gases based upon
7 their global warming potential.

8 ~~((+5))~~ (6) "Cogeneration credit" means the carbon dioxide
9 emissions that the council, department, or authority, as appropriate,
10 estimates would be produced on an annual basis by a stand-alone
11 industrial and commercial facility equivalent in operating
12 characteristics and output to the industrial or commercial heating or
13 cooling process component of the cogeneration plant.

14 ~~((+6))~~ (7) "Cogeneration plant" means a fossil-fueled thermal
15 power plant in which the heat or steam is also used for industrial or
16 commercial heating or cooling purposes and that meets federal energy
17 regulatory commission standards for qualifying facilities under the
18 public utility regulatory policies act of 1978.

19 ~~((+7))~~ (8) "Commercial operation" means the date that the first
20 electricity produced by a facility is delivered for commercial sale to
21 the power grid.

22 ~~((+8))~~ (9) "Commission" means the utilities and transportation
23 commission.

24 (10) "Council" means the energy facility site evaluation council
25 created by RCW 80.50.030.

26 ~~((+9))~~ (11) "Department" means the department of ecology.

27 ~~((+10))~~ (12) "Fossil fuel" means natural gas, petroleum, coal, or
28 any form of solid, liquid, or gaseous fuel derived from such material
29 to produce heat for the generation of electricity.

30 ~~((+11))~~ (13) "Load-serving utility" means every consumer-owned and
31 investor-owned utility serving electricity to end use customers in the
32 state.

33 (14) "Long-term financial commitment" means: (a) A new ownership
34 investment in baseload generation; or (b) a new or renewed contract
35 with a term of five or more years, which includes procurement of
36 baseload generation.

37 (15) "Mitigation plan" means a proposal that includes the process

1 or means to achieve carbon dioxide mitigation through use of mitigation
2 projects or carbon credits.

3 ~~((+12+))~~ (16) "Mitigation project" means one or more of the
4 following:

5 (a) Projects or actions that are implemented by the certificate
6 holder or order of approval holder, directly or through its agent, or
7 by an independent qualified organization to mitigate the emission of
8 carbon dioxide produced by the fossil-fueled thermal electric
9 generation facility. This term includes but is not limited to the use
10 of, energy efficiency measures, clean and efficient transportation
11 measures, qualified alternative energy resources, demand side
12 management of electricity consumption, and carbon sequestration
13 programs;

14 (b) Direct application of combined heat and power (cogeneration);

15 (c) Verified carbon credits traded on a recognized trading
16 authority or exchange; or

17 (d) Enforceable and permanent reductions in carbon dioxide or
18 carbon dioxide equivalents through process change, equipment shutdown,
19 or other activities under the control of the applicant and approved as
20 part of a carbon dioxide mitigation plan.

21 ~~((+13+))~~ (17) "Order of approval" means an order issued under RCW
22 70.94.152 with respect to a fossil-fueled thermal electric generation
23 facility subject to RCW 80.70.020(1) (b) or (d).

24 ~~((+14+))~~ (18) "Permanent" means that emission reductions used to
25 offset emission increases are assured for the life of the corresponding
26 increase, whether unlimited or limited in duration.

27 ~~((+15+))~~ (19) "Qualified alternative energy resource" has the same
28 meaning as in RCW 19.29A.090.

29 ~~((+16+))~~ (20) "Station generating capability" means the maximum
30 load a generator can sustain over a given period of time without
31 exceeding design limits, and measured using maximum continuous electric
32 generation capacity, less net auxiliary load, at average ambient
33 temperature and barometric pressure.

34 ~~((+17+))~~ (21) "Total carbon dioxide emissions" means:

35 (a) For a fossil-fueled thermal electric generation facility
36 described under RCW 80.70.020(1) (a) and (b), the amount of carbon
37 dioxide emitted over a thirty-year period based on the manufacturer's
38 or designer's guaranteed total net station generating capability, new

1 equipment heat rate, an assumed sixty percent capacity factor for
2 facilities under the council's jurisdiction or sixty percent of the
3 operational limitations on facilities subject to an order of approval,
4 and taking into account any enforceable limitations on operational
5 hours or fuel types and use; (~~and~~)

6 (b) For a fossil-fueled thermal electric generation facility
7 described under RCW 80.70.020(1) (c) and (d), the amount of carbon
8 dioxide emitted over a thirty-year period based on the proposed
9 increase in the amount of electrical output of the facility that
10 exceeds the station generation capability of the facility prior to the
11 applicant applying for certification or an order of approval pursuant
12 to RCW 80.70.020(1) (c) and (d), new equipment heat rate, an assumed
13 sixty percent capacity factor for facilities under the council's
14 jurisdiction or sixty percent of the operational limitations on
15 facilities subject to an order of approval, and taking into account any
16 enforceable limitations on operational hours or fuel types and use; and

17 (c) For a load-serving utility, the amount of carbon dioxide
18 emitted by a fossil-fueled thermal electric power plant over the
19 duration of a long-term financial commitment.

20 NEW SECTION. Sec. 2. A new section is added to chapter 80.70 RCW
21 to read as follows:

22 (1)(a) Any load-serving utility that enters into a long-term
23 financial commitment for baseload generation located outside the
24 borders of the state shall provide mitigation for twenty percent of the
25 total carbon dioxide emissions produced by the fossil-fueled thermal
26 electric power plant or plants over the period of the commitment.

27 (b) The load-serving utility shall develop a carbon dioxide
28 mitigation plan detailing how the utility plans to mitigate carbon
29 dioxide emissions under this section.

30 (2) The load-serving utility shall choose one or a combination of
31 the following carbon dioxide mitigation options to mitigate for twenty
32 percent of the total carbon dioxide emission:

33 (a) Payment to a third party to provide mitigation;

34 (b) Direct purchase of permanent carbon credits as specified under
35 RCW 80.70.030; or

36 (c) Investment in load-serving utility-controlled carbon dioxide
37 mitigation projects, including combined heat and power (cogeneration).

1 (3) If the load-serving utility chooses to pay a third party to
2 provide the mitigation, the mitigation rate shall be one dollar and
3 sixty cents per metric ton of carbon dioxide to be mitigated. For a
4 cogeneration plant, the monetary amount is based on the difference
5 between twenty percent of the total carbon dioxide emissions and the
6 cogeneration credit.

7 (a) The council may by rule adjust the rate per ton biennially as
8 long as any increase or decrease does not exceed fifty percent of the
9 current rate.

10 (b) In adjusting the mitigation rate the council shall consider,
11 but is not limited to, the current market price of a ton of carbon
12 dioxide. The council's adjusted mitigation rate must be consistent
13 with RCW 80.50.010(3).

14 (4) The load-serving utility may choose to make to the third party
15 a lump sum payment or partial payment over a period of five years.

16 (a) Under the lump sum payment option, the payment amount is
17 determined by multiplying the total carbon dioxide emissions by the
18 twenty percent mitigation requirement under subsection (1)(a) of this
19 section and by the per ton mitigation rate established under subsection
20 (3) of this section.

21 (b) No later than one hundred twenty days after the start of the
22 long-term financial commitment, the load-serving utility shall make a
23 one-time payment to the independent qualified organization for the
24 amount determined under subsection (3) of this section.

25 (c) As an alternative to a one-time payment, the load-serving
26 utility may make a partial payment of twenty percent of the amount
27 determined under subsection (3) of this section no later than one
28 hundred twenty days after entering into a long-term financial
29 commitment and a payment in the same amount or as adjusted according to
30 subsection (3)(a) of this section, on the anniversary date of the
31 initial payment in each of the following four years. With the initial
32 payment, the load-serving utility shall provide a letter of credit or
33 other comparable security acceptable to the council or the department
34 for the remaining eighty percent mitigation payment amount including
35 possible changes to the rate per metric ton made by the council by rule
36 under subsection (3)(a) of this section.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.70 RCW
2 to read as follows:

3 (1) The carbon dioxide mitigation option that provides for direct
4 investment must be implemented through mitigation projects conducted
5 directly by, or under the control of, the load-serving utility.

6 (2)(a) For investor-owned utilities, mitigation projects must be
7 approved by the commission.

8 (b) For consumer-owned utilities, mitigation projects must be
9 approved by the governing board.

10 (c) Direct investment mitigation projects must be approved if the
11 mitigation projects provide a reasonable certainty that the performance
12 requirements of the mitigation projects will be achieved and the
13 mitigation projects were implemented after July 1, 2004.

14 (d) No load-serving utility is required to make direct investments
15 that would exceed the cost of making a lump sum payment to a third
16 party had the load-serving utility chosen that option under this
17 chapter.

18 (3) Mitigation projects must be fully in place within a reasonable
19 time after the start of the long-term financial commitment. Failure to
20 implement an approved mitigation plan is subject to enforcement under
21 chapter 80.50 or 70.94 RCW.

22 (4) The load-serving utility may not use more than twenty percent
23 of the total funds for the selection, monitoring, and evaluation of
24 mitigation projects and the management and enforcement of contracts.

25 (5)(a) For facilities under the jurisdiction of the commission, the
26 implementation of a carbon dioxide mitigation project, other than a
27 purchase of carbon dioxide equivalent emission reduction credits, must
28 be monitored by the commission.

29 (b) For facilities under the jurisdiction of a governing board, the
30 implementation of a carbon dioxide mitigation project, other than a
31 purchase of carbon dioxide equivalent emission reduction credits, must
32 be monitored by the governing board.

33 (6) Upon promulgation of federal requirements for carbon dioxide
34 mitigation for fossil-fueled thermal electric generation facilities,
35 those requirements may be deemed by the commission or governing boards
36 to be equivalent and a replacement for the requirements of this
37 section.

1 **Sec. 4.** RCW 80.70.070 and 2004 c 224 s 7 are each amended to read
2 as follows:

3 The commission, council, department, and authority shall adopt
4 rules to carry out this chapter.

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