

RCW 80.70.040 Direct investment mitigation projects—Enforcement—Federal requirements may replace this section. (1) The carbon dioxide mitigation option that provides for direct investment shall be implemented through mitigation projects conducted directly by, or under the control of, the certificate holder or order of approval holder.

(2) Mitigation projects must be approved by the council, department, or authority, as appropriate, and made a condition of the proposed and final site certification agreement or order of approval. Direct investment mitigation projects shall be approved if the mitigation projects provide a reasonable certainty that the performance requirements of the mitigation projects will be achieved and the mitigation projects were implemented after July 1, 2004. No certificate holder or order of approval holder shall be required to make direct investments that would exceed the cost of making a lump sum payment to a third party, had the certificate holder or order of approval holder chosen that option under RCW 80.70.020.

(3) Mitigation projects must be fully in place within a reasonable time after the start of commercial operation. Failure to implement an approved mitigation plan is subject to enforcement under chapter 80.50 or 70A.15 RCW.

(4) The certificate holder or order of approval holder may not use more than twenty percent of the total funds for the selection, monitoring, and evaluation of mitigation projects and the management and enforcement of contracts.

(5) (a) For facilities under the jurisdiction of the council, the implementation of a carbon dioxide mitigation project, other than purchase of a carbon credit shall be monitored by an independent entity for conformance with the performance requirements of the carbon dioxide mitigation plan. The independent entity shall make available the mitigation project monitoring results to the council.

(b) For facilities under the jurisdiction of the department or authority pursuant to RCW 80.70.020(1) (b) or (c), the implementation of a carbon dioxide mitigation project, other than a purchase of carbon dioxide equivalent emission reduction credits, shall be monitored by the department or authority issuing the order of approval.

(6) Upon promulgation of federal requirements for carbon dioxide mitigation for fossil-fueled thermal electric generation facilities, those requirements may be deemed by the council, department, or authority to be equivalent and a replacement for the requirements of this section. [2021 c 65 s 99; 2004 c 224 s 4.]

Explanatory statement—2021 c 65: See note following RCW 53.54.030.