

Enrolled
House Bill 2940

Sponsored by Representatives C EDWARDS, GILLIAM; Representatives BRUUN, CAMERON, ESQUIVEL, FREEMAN, HANNA, HUFFMAN, KRIEGER, RICHARDSON, SPRENGER, THATCHER, THOMPSON, WHISNANT, WINGARD, Senators MORRISETTE, WALKER, WINTERS (at the request of Oregon Forest Industries Council)

CHAPTER

AN ACT

Relating to renewable portfolio standards; creating new provisions; and amending ORS 469A.020 and 469A.025.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 469A.020 is amended to read:

469A.020. (1) Except as provided in this section, electricity may be used to comply with a renewable portfolio standard only if the electricity is generated by a facility that becomes operational on or after January 1, 1995.

(2) Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

(3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Administration facility, only that portion of the electricity generation attributable to Oregon's share of the electricity may be used to comply with a renewable portfolio standard.

(4) Subject to the limit imposed by ORS 469A.025 [(5)] **(6)**, electricity from a hydroelectric facility that is owned by an electric utility and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization recognized by the State Department of Energy by rule.

(5)(a) Electricity from a generating facility that uses biomass and that became operational before January 1, 1995, and is located in this state may be used to comply with a renewable portfolio standard if the facility meets the requirements to qualify under the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on the effective date of this 2009 Act whether currently acknowledged as qualified by the Public Utility Commission or not.

(b) The amount of generating capacity eligible to receive renewable energy certificates generated by all facilities qualified under paragraph (a) of this subsection may not exceed 100 megawatts in any calendar year. If the total amount of generating capacity generated by all facilities qualified under paragraph (a) of this subsection is greater than 100 megawatts in a calendar year, then each generator shall be eligible to receive certificates for the proportion of total generating capacity generated by the facility, multiplied by 100 megawatts.

(c) Renewable energy certificates derived from electricity generated by a facility qualifying under paragraph (a) of this subsection may not be used to comply with a renewable portfolio standard prior to January 1, 2015. However, renewable energy certificates issued prior to January 1, 2015, may be banked under ORS 469A.005 to 469A.210 for use after January 1, 2015.

(d) If the owner or operator of a generating facility qualifying under paragraph (a) of this subsection makes cumulative investments in the generating facility between January 1, 2007, and January 1, 2020, equal to at least 80 percent of the 2007 real market value of the generating facility, then the generating facility shall be classified as having become operational on or after January 1, 1995, for the purposes of this section.

(e) After January 1, 2020, electricity from a generating facility that uses biomass and became operational before January 1, 1995, may not be used to comply with a renewable portfolio standard.

(6) A facility generating electricity from direct combustion of municipal solid waste that became operational prior to January 1, 1995, and is located in this state may be used to comply with a renewable portfolio standard for up to 11 average megawatts of electricity generated per year. Renewable energy certificates derived from electricity generated by a facility qualifying under this subsection may not be used to comply with a renewable portfolio standard prior to January 1, 2015. However, renewable energy certificates issued prior to January 1, 2015, may be banked under ORS 469A.005 to 469A.210 for use after January 1, 2015.

SECTION 2. To facilitate the creation of hydrogen power stations using anhydrous ammonia as a fuel source to comply with the renewable portfolio standards under ORS 469A.005 to 469A.210, the Public Utility Commission may allow full recovery of costs by public utilities in prudent energy investments related to the planning, financing, construction and operation of hydrogen power stations. These investments include, but are not limited to:

(1) Systems designed to synthesize anhydrous ammonia fuel using electricity generated from renewable energy sources listed in ORS 469A.025;

(2) Infrastructure designed to store anhydrous ammonia generated from renewable energy sources as a nonpolluting fuel for electric power generation and for other purposes;

(3) Energy systems designed to use anhydrous ammonia generated from renewable energy sources as a fuel to generate electric power; and

(4) Electronic control and management systems designed to effectively integrate hydrogen power station processes into the electric power grid.

SECTION 3. ORS 469A.025 is amended to read:

469A.025. (1) Electricity generated utilizing the following types of energy may be used to comply with a renewable portfolio standard:

(a) Wind energy.

(b) Solar photovoltaic and solar thermal energy.

(c) Wave, tidal and ocean thermal energy.

(d) Geothermal energy.

(2) Except as provided in subsection (3) of this section, electricity generated from biomass and biomass by-products may be used to comply with a renewable portfolio standard, including but not limited to electricity generated from:

(a) Organic human or animal waste;

(b) Spent pulping liquor;

(c) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce uncharacteristic stand replacing wildfire risk;

(d) Wood material from hardwood timber grown on land described in ORS 321.267 (3);

(e) Agricultural residues;

(f) Dedicated energy crops; and

(g) Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters or municipal solid waste.

(3) Electricity generated from the direct combustion of biomass may not be used to comply with a renewable portfolio standard if any of the biomass combusted to generate the electricity includes[:]

[(a) *Municipal solid waste; or*]

[(b)] wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.

(4) Electricity generated by a hydroelectric facility may be used to comply with a renewable portfolio standard only if:

(a) The facility is located outside any protected area designated by the Pacific Northwest Electric Power and Conservation Planning Council as of July 23, 1999, or any area protected under the federal Wild and Scenic Rivers Act, Public Law 90-542, or the Oregon Scenic Waterways Act, ORS 390.805 to 390.925; or

(b) The electricity is attributable to efficiency upgrades made to the facility on or after January 1, 1995.

(5) Direct combustion of municipal solid waste in a generating facility located in this state may be used to comply with a renewable portfolio standard. The qualification of a municipal solid waste facility for use in compliance with a renewable portfolio standard has no effect on the qualification of such a facility for a tax credit under ORS 469.185 to 469.225 as such qualification existed prior to the effective date of this 2009 Act.

[(5)] (6) Up to 50 average megawatts of electricity per year generated by an electric utility from certified low-impact hydroelectric facilities described in ORS 469A.020 (4) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities operated by the electric utility or the generating capacity of those facilities. A hydroelectric facility described in this subsection is not subject to the requirements of subsection (4) of this section.

[(6)] (7) Electricity generated from hydrogen gas, **including electricity generated by hydrogen power stations using anhydrous ammonia as a fuel source**, [*derived from any source of energy described in subsections (1) to (5) of this section*] may be used to comply with a renewable portfolio standard **if:**

(a) The energy is derived from:

(A) Any source of energy described in subsections (1) and (2) of this section; or

(B) A hydroelectric facility that complies with subsection (4) of this section and is from a certified low-impact hydroelectric facility described in ORS 469A.020 (4); and

(b) The output of the original source of energy is not also used to comply with the renewable portfolio standard.

[(7)] (8) If electricity generation employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in subsections (1) to [(6)] (7) of this section may be used to comply with a renewable portfolio standard.

[(8)] (9) The State Department of Energy by rule may approve energy sources other than those described in this section that may be used to comply with a renewable portfolio standard. The department may not approve petroleum, natural gas, coal or nuclear fission as an energy source that may be used to comply with a renewable portfolio standard.

SECTION 4. The State Department of Energy may certify as eligible for renewable energy certificates a facility that becomes qualified under the amendments to ORS 469A.020 and 469A.025 by sections 1 and 3 of this 2009 Act only for electricity generated on or after January 1, 2011.

SECTION 5. (1) To be eligible for receipt of renewable energy certificates, the owner or operator of a generating facility eligible to receive renewable energy certificates under the amendments to ORS 469A.020 by section 1 of this 2009 Act must register the generating facility with the Western Renewable Energy Generation Information System or other regional

system or trading program designated by the State Department of Energy prior to April 1, 2010.

(2) The department shall calculate each eligible generating facility's share of the capacity allowed under ORS 469A.020 as amended by section 1 of this 2009 Act based upon the generating facility's generating capacity filed under subsection (1) of this section. For the purposes of certifying a facility output as eligible for a renewable portfolio standard, the department may also factor in the ratio of the total generation during the most recent year of operation of all facilities that have registered under subsection (1) of this section to a target of 100 average megawatts of generated electricity per year.

SECTION 6. If this 2009 Act is declared unconstitutional, it is the intent of the Legislative Assembly that all sections amended or repealed by this 2009 Act shall remain in effect the same as if this 2009 Act had not been enacted.

Passed by House May 6, 2009

Received by Governor:

Repassed by House June 29, 2009

.....M.,....., 2009

Approved:

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Chief Clerk of House

.....M.,....., 2009

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Speaker of House

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Governor

Passed by Senate June 26, 2009

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2009

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Secretary of State