

Enrolled
House Bill 3649

Sponsored by COMMITTEE ON AGRICULTURE, NATURAL RESOURCES AND RURAL COMMUNITIES

CHAPTER

AN ACT

Relating to electricity from low-impact hydroelectric facilities that may be used to comply with 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), 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, **and if the facility is either:**

(a) Owned by an electric utility; or

(b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such license.

SECTION 2. 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)(a) 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)(a) 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] **paragraph** is not subject to the requirements of subsection (4) of this section.

(b) Up to 40 average megawatts of electricity per year generated by certified low-impact hydroelectric facilities described in ORS 469A.020 (4)(b) may be used to comply with a renewable portfolio standard, without regard to the number of certified facilities or the generating capacity of those facilities. A hydroelectric facility described in this paragraph is not subject to the requirements of subsection (4) of this section.

(6) Electricity generated from hydrogen gas 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.

(7) 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) of this section may be used to comply with a renewable portfolio standard.

(8) 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 3. The amendments to ORS 469A.020 and 469A.025 by sections 1 and 2 of this 2010 Act apply to electricity generated on or after January 1, 2011.

SECTION 4. If this 2010 Act is declared unconstitutional, it is the intent of the Legislative Assembly that all sections amended by this 2010 Act shall remain in effect the same as if this 2010 Act had not been enacted.

Passed by House February 12, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 20, 2010

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President of Senate

Received by Governor:

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Approved:

.....M,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State