

Chapter 80.82 RCW
CLOSURE OF COAL-FIRED ELECTRIC GENERATION FACILITIES

Sections

- 80.82.010 Closure and postclosure plans for certain facilities.
80.82.020 Guarantee of funds to perform activities specified in a decommissioning plan—Letter of credit.

RCW 80.82.010 Closure and postclosure plans for certain facilities. (1) A facility subject to closure under either RCW 80.80.040(3)(c) or a memorandum of agreement under RCW 80.80.100, or both, must provide the department of ecology with a plan for the closure and postclosure of the facility at least twenty-four months prior to facility closure or twenty-four months prior to start of decommissioning work, whichever is earlier. This plan must be consistent with the rules established by the energy facility site evaluation council for site restoration and preservation applicable to facilities subject to a site certification agreement under chapter 80.50 RCW and include but not be limited to:

- (a) A detailed estimate of the cost to implement the plan based on the cost of hiring a third party to conduct all activities;
- (b) Demonstrating financial assurance to fund the closure and postclosure of the facility and providing methods by which this assurance may be demonstrated;
- (c) Methods for estimating closure costs, including full site reclamation under all applicable federal and state clean-up standards; and
- (d) A decommissioning and site restoration plan that addresses restoring physical topography, cleanup of all hazardous substances on the site, potential future uses of the site following restoration, and coordination with local and community plans for economic development in the vicinity of the site.

(2) All cost estimates in the plan must be in current dollars and may not include a net present value adjustment or offsets for salvage value of wastes or other property.

(3) Adoption of the plan and significant revisions to the plan must be approved by the department of ecology. [2011 c 180 § 201.]

Findings—Purpose—2011 c 180: See note following RCW 80.80.010.

RCW 80.82.020 Guarantee of funds to perform activities specified in a decommissioning plan—Letter of credit. (1) A facility subject to closure under either RCW 80.80.040(3)(c) or a memorandum of agreement under RCW 80.80.100, or both, must guarantee funds are available to perform all activities specified in the decommissioning plan developed under RCW 80.82.010. The amount must equal the cost estimates specified in the decommissioning plan and must be updated annually for inflation. All guarantees under this section must be assumed by any successor owner, parent company, or holding company.

(2) The guarantee required under subsection (1) of this section may be accomplished by letter of credit, surety bond, or other means acceptable to the department of ecology.

(3) The issuing institution of the letter of credit must be an entity that has the authority to issue letters of credit and whose

letter of credit operations are regulated by a federal or state agency. The surety company issuing a surety bond must, at a minimum, be an entity listed as an acceptable surety on federal bonds in circular 570, published by the United States department of the treasury.

(4) A qualifying facility that uses a letter of credit or a surety bond to satisfy the requirements of chapter 180, Laws of 2011 must also establish a standby trust fund as a means to hold any funds issued from the letter of credit or a surety bond. Under the terms of the letter of credit or a surety bond, all amounts paid pursuant to a draft from the department of ecology must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the department of ecology. This standby trust fund must be approved by the department of ecology.

(5) The letter of credit or a surety bond must be irrevocable and issued for a period of at least one year. The letter of credit or a surety bond must provide that the expiration date will be automatically extended for a period of at least one year unless, at least one hundred twenty days before the current expiration date, the issuing institution notifies both the qualifying facility and the department of ecology of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty days will begin on the date when both the qualifying plant and the department of ecology have received the notice, as evidenced by certified mail return receipts or by overnight courier delivery receipts.

(6) If the qualifying facility does not establish an alternative method of guaranteeing decommissioning funds are available within ninety days after receipt by both the qualifying facility plant and the department of ecology of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the department of ecology must draw on the letter of credit or a surety bond. The department of ecology must approve any replacement or substitute guarantee method before the expiration of the ninety-day period.

(7) If a qualifying facility elects to use a letter of credit as the sole method for guaranteeing decommissioning funds are available, the face value of the letter of credit must meet or exceed the current inflation-adjusted cost estimate. If a qualifying facility elects to use a surety bond as the sole method for guaranteeing decommissioning funds are available, the penal sum of the surety bond must meet or exceed the current inflation-adjusted cost estimate.

(8) A qualifying facility must adjust the decommissioning costs and financial guarantees annually for inflation and may use an amendment to increase the face value of a letter of credit or a surety bond each year to account for this inflation. A qualifying facility is not required to obtain a new letter of credit or a surety bond to cover annual inflation adjustments. [2011 c 180 § 202.]

Findings—Purpose—2011 c 180: See note following RCW 80.80.010.