

## CHAPTER 94

[Engrossed Substitute House Bill No. 114]

## HEAT SUPPLIERS—DISTRICT HEATING—OPERATING PERMITS—RATES

AN ACT Relating to the regulation of district heating systems and services; adding a new chapter to Title 86 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The legislature finds that traditional utility regulation may pose unnecessary barriers to: (1) The widespread and rapid utilization of Washington's geothermal heat resource for district heating purposes; and (2) the efficient use of biomass materials and waste heat sources for district heating purposes. The legislature further finds that regulation may be necessary to protect the interests of the public in securing adequate heating services from these heat sources at reasonable cost. Therefore, it is the intent of the legislature and the purpose of this chapter to provide a streamlined permitting system which will encourage development and efficient utilization and distribution of heat while continuing to provide reasonable customer protections.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biomass materials" means organic materials that are primarily waste materials and the conversion or use of such materials can be used to generate heat directly.

(2) "Geothermal heat" means the natural thermal energy of the earth.

(3) "Heat" means thermal energy.

(4) "Heat source" includes but is not limited to: (a) Generators of waste heat; (b) geothermal wells or springs; (c) combustion of biomass materials; or (d) collection of solar heat.

(5) "Heat supplier" means any private person, company, association, or corporation engaged or proposing to engage in developing, producing, transmitting, distributing, delivering, furnishing, or selling to or for the public heat from a heat source for any beneficial use other than electricity generation.

(6) "Commission" means the utilities and transportation commission.

(7) "Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of cogeneration by a person or corporation.

(8) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source.

(9) "Waste heat" means the thermal energy released to the environment from an industrial process, electric generation, or other process.

**NEW SECTION.** Sec. 3. Notwithstanding any other provision of law, heat suppliers are not subject to the general jurisdiction of the commission, but are only subject to the limited jurisdiction conferred to the commission by this chapter. Nothing in this chapter prohibits existing regulated public utilities from providing heat from a heat source, as defined in section 2 of this act, and thereby being eligible to seek an operating permit as a heat supplier as provided by this chapter.

**NEW SECTION.** Sec. 4. The commission shall, within one hundred eighty days of the effective date of this act, adopt regulations governing application contents, customer heating service contracts, review procedures, and fees necessary in implementing this chapter. The commission shall set the fees so that total fees collected will approximately equal the reasonable cost of supervising and regulating heat suppliers.

**NEW SECTION.** Sec. 5. Upon application by a heat supplier, the commission shall notify all providers of heating services within the designated service territory of pending application, and shall issue a nonexclusive operating permit to provide heating services within a designated service territory, as proposed by the applicant, if the commission reasonably determines:

(1) The applicant is qualified and financially responsible to provide the services for which the permit is sought;

(2) The applicant's proposed system design is adequate for that purpose; and

(3) The contract to be offered to the applicant's customers substantially complies with the requirements set forth in section 6 of this act.

**NEW SECTION.** Sec. 6. (1) Each heat supplier shall enter into a contract with each customer proposed to be served pursuant to an operating permit.

(2) The terms of the contract, or any renewal, modification, termination, or expiration thereof, to be offered to each customer or class of customers, or representatives thereof, shall be subject to the approval of the commission and shall specify, but not be limited to:

(a) The period of time during which the heating service will be provided;

(b) The rates or the formula for determining rates to be charged during the contract term; and

(c) The adequacy of the service provided during the contract term.

**NEW SECTION.** Sec. 7. In accordance with the purpose of this chapter as set forth in section 1 of this act, commission approval of the rates or rate formula specified in the customer heating service contract shall not be based upon the heat supplier's cost of providing services or its rate of return on investment, but shall be based upon the reasonableness of the proposed rates in relation to the rates charged to customers for comparable heating services such as electric, oil, and natural gas heating otherwise available in

the proposed service territory. Any proposed rate less than eighty percent of the lowest rate of the foregoing services shall be deemed reasonable as a matter of law and shall be approved.

**NEW SECTION.** Sec. 8. The commission shall have continuing jurisdiction to regulate heat suppliers as provided in this chapter to ensure compliance with the terms of any operating permit issued in accordance with this chapter.

**NEW SECTION.** Sec. 9. This chapter expires July 1, 2003, but suppliers may continue to operate under this chapter for ten years from the date of issue of their first operating permit.

**NEW SECTION.** Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 11. Sections 1 through 8 of this act constitute a new chapter in Title 80 RCW.

Passed the House April 13, 1983.

Passed the Senate April 11, 1983.

Approved by the Governor April 22, 1983.

Filed in Office of Secretary of State April 22, 1983.

## CHAPTER 95

[Substitute House Bill No. 118]

### PESTICIDE REGISTRATION—DEALER LICENSING—APPLE ASSESSMENTS

AN ACT Relating to agriculture; amending section 15.24.090, chapter 11, Laws of 1961 as last amended by section 1, chapter 20, Laws of 1979 and RCW 15.24.090; amending section 7, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.070; amending section 8, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.080; amending section 18, chapter 190, Laws of 1971 ex. sess. as amended by section 27, chapter 182, Laws of 1982 and RCW 15.58.180; amending section 21, chapter 190, Laws of 1971 ex. sess. and RCW 15.58.210; amending section 23, chapter 100, Laws of 1969 ex. sess. and RCW 15.80.520; amending section 17, chapter 249, Laws of 1961 as last amended by section 10, chapter 177, Laws of 1967 and RCW 17.21.170; and amending section 30, chapter 257, Laws of 1945 and RCW 69.04.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 15.24.090, chapter 11, Laws of 1961 as last amended by section 1, chapter 20, Laws of 1979 and RCW 15.24.090 are each amended to read as follows:

If it appears from investigation by the commission that the revenue from the assessment levied on fresh apples (~~hereunder~~) under this chapter is inadequate to accomplish the purposes of this chapter, the commission shall adopt a resolution setting forth the necessities of the industry, the extent and probable cost of the required research, market promotion, and advertising, the extent of public convenience, interest, and necessity, and probable