
HOUSE BILL 1148

State of Washington

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By Representatives Grant, Mastin, Schoesler, Sheahan and Delvin

Read first time 01/15/1999. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to burning conducted with regard to the production
2 of cereal grains; amending RCW 70.94.030; and adding a new section to
3 chapter 70.94 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.94.030 and 1993 c 252 s 2 are each amended to read
6 as follows:

7 Unless a different meaning is plainly required by the context, the
8 following words and phrases as hereinafter used in this chapter shall
9 have the following meanings:

10 (1) "Air contaminant" means dust, fumes, mist, smoke, other
11 particulate matter, vapor, gas, odorous substance, or any combination
12 thereof.

13 (2) "Air pollution" is presence in the outdoor atmosphere of one or
14 more air contaminants in sufficient quantities and of such
15 characteristics and duration as is, or is likely to be, injurious to
16 human health, plant or animal life, or property, or which unreasonably
17 interfere with enjoyment of life and property. For the purpose of this
18 chapter, air pollution shall not include air contaminants emitted in
19 compliance with chapter 17.21 RCW.

1 (3) "Air quality standard" means an established concentration,
2 exposure time, and frequency of occurrence of an air contaminant or
3 multiple contaminants in the ambient air which shall not be exceeded.

4 (4) "Ambient air" means the surrounding outside air.

5 (5) "Authority" means any air pollution control agency whose
6 jurisdictional boundaries are coextensive with the boundaries of one or
7 more counties.

8 (6) "Best available control technology" (BACT) means an emission
9 limitation based on the maximum degree of reduction for each air
10 pollutant subject to regulation under this chapter emitted from or that
11 results from any new or modified stationary source, that the permitting
12 authority, on a case-by-case basis, taking into account energy,
13 environmental, and economic impacts and other costs, determines is
14 achievable for such a source or modification through application of
15 production processes and available methods, systems, and techniques,
16 including fuel cleaning, clean fuels, or treatment or innovative fuel
17 combustion techniques for control of each such a pollutant. In no
18 event shall application of "best available control technology" result
19 in emissions of any pollutants that will exceed the emissions allowed
20 by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they
21 exist on July 25, 1993, or their later enactments as adopted by
22 reference by the director by rule. Emissions from any source utilizing
23 clean fuels, or any other means, to comply with this subsection shall
24 not be allowed to increase above levels that would have been required
25 under the definition of BACT as it existed prior to enactment of the
26 (~~{federal}~~) federal clean air act amendments of 1990.

27 (7) "Best available retrofit technology" (BART) means an emission
28 limitation based on the degree of reduction achievable through the
29 application of the best system of continuous emission reduction for
30 each pollutant that is emitted by an existing stationary facility. The
31 emission limitation must be established, on a case-by-case basis,
32 taking into consideration the technology available, the costs of
33 compliance, the energy and nonair quality environmental impacts of
34 compliance, any pollution control equipment in use or in existence at
35 the source, the remaining useful life of the source, and the degree of
36 improvement in visibility that might reasonably be anticipated to
37 result from the use of the technology.

38 (8) "Board" means the board of directors of an authority.

1 (9) "Control officer" means the air pollution control officer of
2 any authority.

3 (10) "Department" or "ecology" means the department of ecology.

4 (11) "Emission" means a release of air contaminants into the
5 ambient air.

6 (12) "Emission standard" and "emission limitation" mean a
7 requirement established under the federal clean air act or this chapter
8 that limits the quantity, rate, or concentration of emissions of air
9 contaminants on a continuous basis, including any requirement relating
10 to the operation or maintenance of a source to assure continuous
11 emission reduction, and any design, equipment, work practice, or
12 operational standard adopted under the federal clean air act or this
13 chapter.

14 (13) "Lowest achievable emission rate" (LAER) means for any source
15 that rate of emissions that reflects:

16 (a) The most stringent emission limitation that is contained in the
17 implementation plan of any state for such class or category of source,
18 unless the owner or operator of the proposed source demonstrates that
19 such limitations are not achievable; or

20 (b) The most stringent emission limitation that is achieved in
21 practice by such class or category of source, whichever is more
22 stringent.

23 In no event shall the application of this term permit a proposed
24 new or modified source to emit any pollutant in excess of the amount
25 allowable under applicable new source performance standards.

26 (14) "Modification" means any physical change in, or change in the
27 method of operation of, a stationary source that increases the amount
28 of any air contaminant emitted by such source or that results in the
29 emission of any air contaminant not previously emitted. The term
30 modification shall be construed consistent with the definition of
31 modification in Section 7411, Title 42, United States Code, and with
32 rules implementing that section.

33 (15) "Multicounty authority" means an authority which consists of
34 two or more counties.

35 (16) "New source" means (a) the construction or modification of a
36 stationary source that increases the amount of any air contaminant
37 emitted by such source or that results in the emission of any air
38 contaminant not previously emitted, and (b) any other project that
39 constitutes a new source under the federal clean air act.

1 (17) "Permit program source" means a source required to apply for
2 or to maintain an operating permit under RCW 70.94.161.

3 (18) "Person" means an individual, firm, public or private
4 corporation, association, partnership, political subdivision of the
5 state, municipality, or governmental agency.

6 (19) "PM-10 emissions" means finely divided solid or liquid
7 material, including condensible particulate matter, with an aerodynamic
8 diameter less than or equal to a nominal 10 micrometers emitted to the
9 ambient air as measured by an applicable reference method, or an
10 equivalent or alternate method, specified in Appendix M of 40 C.F.R.
11 Part 51 or by a test method specified in the Washington state
12 implementation plan as the appendix and plan exist on the effective
13 date of this section.

14 (20) "Reasonably available control technology" (RACT) means the
15 lowest emission limit that a particular source or source category is
16 capable of meeting by the application of control technology that is
17 reasonably available considering technological and economic
18 feasibility. RACT is determined on a case-by-case basis for an
19 individual source or source category taking into account the impact of
20 the source upon air quality, the availability of additional controls,
21 the emission reduction to be achieved by additional controls, the
22 impact of additional controls on air quality, and the capital and
23 operating costs of the additional controls. RACT requirements for a
24 source or source category shall be adopted only after notice and
25 opportunity for comment are afforded.

26 (~~(20)~~) (21) "Silvicultural burning" means burning of wood fiber
27 on forest land consistent with the provisions of RCW 70.94.660.

28 (~~(21)~~) (22) "Source" means all of the emissions units including
29 quantifiable fugitive emissions, that are located on one or more
30 contiguous or adjacent properties, and are under the control of the
31 same person, or persons under common control, whose activities are
32 ancillary to the production of a single product or functionally related
33 group of products.

34 (~~(22)~~) (23) "Stationary source" means any building, structure,
35 facility, or installation that emits or may emit any air contaminant.

36 NEW SECTION. Sec. 2. A new section is added to chapter 70.94 RCW
37 to read as follows:

1 (1) The department of ecology shall establish a program requiring
2 a reduction in emissions from burning conducted in association with the
3 production of cereal grains. The program shall reduce these emissions
4 in the state by fifty percent over a ten-year period beginning January
5 1, 1999. The program shall be established for the reduction of
6 emissions, not for a reduction of the acreage used in the production of
7 cereal grains or of the acreage burned in association with that
8 production. The reduction in the emissions shall be measured by the
9 reduction in PM-10 emissions from such burning. Permits issued by any
10 entity under this chapter for burning conducted in association with the
11 production of cereal grains shall be consistent with the department's
12 emission reduction program established under this section.

13 (2) Using the best information available to it, the department of
14 ecology shall estimate the amount of PM-10 emissions caused by such
15 burning during calendar year 1998 and use this emission level as the
16 emission base against which reductions shall be measured during the
17 ten-year period. The emission reductions necessary to achieve a fifty
18 percent reduction in the base emission level shall be equally spread
19 over the ten-year period: PM-10 emissions from such burning in the
20 first year of the period shall be reduced to ninety-five percent of the
21 PM-10 emissions from such burning in the base year, ninety percent of
22 the base year in year two of the period, and so forth.

23 (3) Activities not associated with the routine production of cereal
24 grains, such as the clearing of land in grassy cover under a federal
25 conservation reserve program to bring the land into production for
26 cereal grains, shall not be counted toward the emissions to be reduced
27 under this section.

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