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SECOND SUBSTITUTE HOUSE BILL 2119

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State of Washington

58th Legislature

2003 Regular Session

**By** House Committee on Appropriations (originally sponsored by Representatives Linville, Morris, Romero, Kagi, Kirby, Edwards, Wallace, Chase, Cooper, Hunt and Upthegrove)

READ FIRST TIME 03/10/03.

1 AN ACT Relating to voluntary registration of greenhouse gas  
2 emissions; adding a new section to chapter 42.17 RCW; and adding a new  
3 chapter to Title 70 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) It is in the best interest of the state of Washington, the  
7 United States of America, and the earth as a whole, to encourage  
8 voluntary actions to achieve all economically beneficial reductions of  
9 greenhouse gas emissions from Washington sources.

10 (2) Mandatory reductions of greenhouse gas emissions may eventually  
11 be imposed on Washington sources, and, consequently, the state has a  
12 responsibility to use its best efforts to ensure that organizations  
13 that voluntarily reduce their emissions receive appropriate  
14 consideration for reductions in emissions made before mandatory  
15 programs are implemented.

16 (3) Past programs in the state that took early and responsible  
17 action to reduce pollution and to save energy have demonstrated  
18 political, economic, and technological leadership, have benefited the

1 state, and have saved taxpayers, business owners, and homeowners  
2 significant amounts of money.

3 (4) The state's tradition of environmental and energy leadership  
4 should be recognized by establishing a registry to provide  
5 documentation of reductions in greenhouse gas emissions that are  
6 voluntarily achieved by sources within the state.

7 (5) Greenhouse gas emissions exchanges are being established with  
8 the ability to buy and sell the rights to emissions reduction credits.  
9 Washington sources will benefit as mature traders in these markets in  
10 the future by early participation.

11 NEW SECTION. **Sec. 2.** The purposes of the Washington climate  
12 action registry are to:

13 (1) Provide technical and educational resources to registrants  
14 wishing to record and trade emissions inventories;

15 (2) Encourage voluntary actions to increase energy efficiency and  
16 reduce greenhouse gas emissions;

17 (3) Publish basic definitions and protocols and publicize  
18 organizations qualified to provide technical assistance so  
19 participating organizations may record greenhouse gas emissions  
20 inventories in a consistent format that is supported by third-party  
21 verification;

22 (4) Develop procedures for the registration of inventories that  
23 include the treatment of emissions released by or absorbed into fuels  
24 and fiber produced by biological systems or from or into the biological  
25 systems themselves;

26 (5) Ensure that registrants receive the greatest possible  
27 consideration of their verified emissions inventories under any future  
28 federal regulatory regime relating to greenhouse gas emissions;

29 (6) Recognize and publicize registrants and preserve and make  
30 available emissions inventories recorded by registrants;

31 (7) Recruit broad participation in the process from all economic  
32 sectors and regions of the state; and

33 (8) Establish a rigorous and transparent registry system that will  
34 increase the opportunities for Washington registry participants to  
35 trade greenhouse gas emissions reduction credits.

1        NEW SECTION.    **Sec. 3.**    The definitions in this section apply

2 throughout this chapter unless the context clearly requires otherwise.

3        (1) "Center" means the Washington climate and rural energy  
4 development center established in RCW 28B.30.642.

5        (2) "Direct emissions" are emissions from sources, sinks, and  
6 activities that the entity owns or has direct or effective control  
7 over, such as, but not limited to, on-site combustion and process  
8 equipment emissions and vehicles owned or operated by the entity.

9        (3) "Emissions" means the net of release and absorption of  
10 greenhouse gases into or from the ambient air.

11        (4) "Emissions inventory" means the report of emissions and  
12 normalized emissions for a calendar year.

13        (5) "Entity" means a for-profit or a nonprofit corporation filing  
14 a separate federal income tax return, a city or county, each state  
15 government department and agency and all other instruments of state and  
16 local government, including municipal electric utilities and special  
17 districts of all types.

18        (6) "Greenhouse gases" means those gaseous constituents of the  
19 atmosphere, both natural and anthropogenic, that absorb and emit  
20 radiation at wavelengths within the spectrum of infrared radiation  
21 emitted by the Earth's surface, atmosphere, and clouds.

22        (7) "Indirect emissions" are emissions caused by an entity's  
23 activities but controlled, directly or effectively, by another entity,  
24 such as, but not limited to, emissions created during the manufacture  
25 or transportation of energy or the generation and transmission of  
26 electricity acquired from another entity.

27        (8) "Normalized emissions" means a ratio of emissions per unit time  
28 divided by a factor such as, but not limited to, revenues,  
29 expenditures, energy use, or production for the same time period and  
30 for the same scope as the emissions.

31        (9) "Primary greenhouse gas" means carbon dioxide,  
32 hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and  
33 sulfur hexafluoride.

34        (10) "Public process" means the involvement of current and  
35 potential registrants, interested members of government, academic,  
36 scientific, and business communities, and the public in the  
37 development, evaluation, and adoption of protocols and other actions  
38 necessary to the implementation of this chapter.

1 (11) "Registrant" means an entity that has filed with the registry  
2 the required identifying information, notified the center that it  
3 intends to record emissions inventories and has paid the necessary  
4 fees.

5 (12) "Registry" means the Washington climate action registry  
6 established under section 4 of this act.

7 (13) "Scope" means the sources, sinks, and activities creating  
8 emissions that are included in the emissions inventory of an entity.

9 (14) "Secondary greenhouse gas" means those additional greenhouse  
10 gases designated by the center through a public process.

11 (15) "Subsidiary" means an entity effectively under the control of  
12 a parent entity, including but not limited to, public and private  
13 nonprofit and for-profit corporations, whose board of directors or  
14 similar managing authority is composed of a majority of persons  
15 appointed by the legislative and/or executive authority of the parent  
16 entity. However, each department and independent agency of the state  
17 and each municipal electric utility shall not be considered a  
18 subsidiary of a parent entity for the purpose of section 7(6) of this  
19 act. "Subsidiary" includes entities that are joint ventures with other  
20 entities with emissions assigned to the parent entities according to  
21 mutual agreement or in the absence of an agreement in proportions  
22 determined by the protocols of the registry.

23 NEW SECTION. **Sec. 4.** (1) The center shall establish and maintain  
24 the Washington climate action registry.

25 (2) The center may contract with or otherwise agree to use  
26 personnel of a state or local agency, a university, or a nonprofit  
27 public corporation to operate the registry and to provide such  
28 additional services necessary for the center to meet its  
29 responsibilities under this chapter. Merit system regulations or  
30 standards for the employment of personnel may be waived for personnel  
31 hired under contract as provided for in this section.

32 (3) The center shall adopt a schedule of fees for registry services  
33 adequate to cover the costs of operating the registry.

34 NEW SECTION. **Sec. 5.** Participation in the registry is voluntary.  
35 Any entity operating in the state may register with the center, record  
36 its emissions inventory, and may use the services of the center.

1        NEW SECTION.    **Sec. 6.**    (1) The center shall encourage entities from  
2 various sectors of the state's economy and from various geographic  
3 regions of the state to establish emissions inventories, establish  
4 greenhouse gas reduction targets, implement energy efficiency  
5 improvement and renewable energy programs to achieve those targets, and  
6 participate in the registry.

7        (2) The center shall recognize, publicize, and promote registrants  
8 that do any of the following:

9            (a) Commit to establish emissions inventories;

10          (b) Record their annual emissions inventories with the center; or

11          (c) Commit to set emissions or normalized emissions reduction  
12 targets.

13        (3) The state commits to use its best efforts to ensure that  
14 entities that register emissions inventories that are verified in  
15 accordance with section 8 of this act receive appropriate consideration  
16 under any future international, federal, or state regulatory scheme  
17 relating to greenhouse gas emissions.    However, the state cannot  
18 guarantee that any regulatory regime relating to greenhouse gas  
19 emissions will recognize the emissions inventories recorded in the  
20 registry.

21        NEW SECTION.    **Sec. 7.**    (1) Emissions inventories recorded with the  
22 registry shall be:

23            (a) Developed in a consistent manner across an economic sector;

24            (b) Complete, including all materially significant emissions within  
25 the scope being reported;

26            (c) Accurate; and

27            (d) Verifiable.

28        (2) The center shall:

29            (a) Adopt through a public process protocols for defining the scope  
30 of emissions inventories, and for measuring, calculating, reporting,  
31 and verifying emissions, normalized emissions, and emission  
32 inventories, which may be different for different economic sectors;

33            (b) Adopt through a public process a uniform format for reporting  
34 emissions inventories to facilitate their recognition in any future  
35 international, federal, or state regulatory regime;

36            (c) Maintain a record of all emissions inventories submitted by  
37 active registrants that have been verified under section 8 of this act.

1 Records or other information furnished to the registry, other than the  
2 total annual amount of emissions of each greenhouse gas by an entity,  
3 that would be likely to affect adversely the competitive position of a  
4 registrant if released to the public or to a competitor, and the  
5 registrant so certifies, shall be only for the confidential use of the  
6 center and the third-party organization or person conducting  
7 verification review of the inventory as required by section 8 of this  
8 act.

9 (3) The procedures for monitoring, calculating, reporting, and  
10 verifying greenhouse gas emissions inventories established for the  
11 registry under this chapter shall be the only protocols used to define  
12 and report greenhouse gas emissions to the registry. In establishing  
13 the registry design, operations, and protocols the center shall review  
14 and consider the registry design, operations, and protocols established  
15 or recommended by other governments and organizations to enhance the  
16 credibility and acceptability of the information recorded in the  
17 registry.

18 (4)(a) All registrants shall report emissions of carbon dioxide.

19 (b) All registrants may report emissions of all primary greenhouse  
20 gases. After their third reporting year, a registrant shall include in  
21 its emissions inventory the emissions of all primary greenhouse gases.  
22 The protocols of the registry shall include factors for expressing  
23 emissions from various greenhouse gases in common terms.

24 (c) After July 1, 2005, the center may, through a public process,  
25 create or expand the list of secondary greenhouse gases and may require  
26 the inclusion of secondary greenhouse gases in emissions inventories.

27 (5) Registrants shall report direct emissions and indirect  
28 emissions from acquired energy and electricity for the scope of their  
29 operations as provided in the protocols adopted by the center.  
30 Registrants may include additional indirect emissions that are  
31 verifiable. After July 1, 2005, the center may, through a public  
32 process, enlarge the scope of indirect emissions that are required to  
33 be included.

34 (6)(a) The basic unit of participation in the registry shall be an  
35 entity. The center shall not record with the registry emissions  
36 inventories for subsidiaries, individual facilities, or projects, other  
37 than as a subset of an entity's entire emissions inventory reporting.

1 (b) An entity's scope shall include all activities, sources, and  
2 sinks in the state and may include the remainder of the entity in the  
3 United States.

4 (c) An entity may report verified emissions inventories for  
5 sequential multiple years after January 1, 1990, from facilities or  
6 activities outside the entity for which it claims ownership of the net  
7 change in emissions. It may separately report emissions inventories  
8 for subsidiaries, facilities, projects, or portions of the entity in  
9 other countries.

10 (d) Where the scope of the registrant changes significantly during  
11 the year, the center may record with the registry for the year in which  
12 the scope change occurs an emissions inventory including only the scope  
13 of the prior year and shall add an explanatory note to the record.

14 (e) Entities may initially report emissions inventories for  
15 subsidiaries or individual facilities located in the state if the  
16 parent entity commits, in writing to the center, to report a complete  
17 current annual emissions inventory for the entire portion of the entity  
18 within the state by its third annual report of its emissions inventory.

19 (7)(a) Registrants shall record an emissions inventory for a  
20 calendar year. Registrants that have sufficiently complete data for  
21 prior years that can be verified may record emissions inventories for  
22 consecutive years before the first year for which they report, but not  
23 before January 1, 1990.

24 (b) The center shall adopt, through a public process, schedules for  
25 the recording of verified emissions inventories for each year,  
26 procedures for delisting registrants that fail to record complete  
27 emissions inventories in future years or fail to report for the entire  
28 portion of the entity within the state by their third annual report,  
29 and fees to recover any costs necessary to reestablish registration.

30 (8)(a) An explanatory note shall be added in the registry to prior  
31 years' data when there is a change in the procedures or protocols by  
32 which a registrant's emissions inventories are created or if there is  
33 a significant change in the scope included in the emissions inventory,  
34 such as, but not limited to, the outsourcing or transfer to other  
35 facilities of the entity of production previously included or the  
36 merger into the company of an entity not previously within the scope.  
37 Registrants may record emissions inventories with separately identified

1 adjustments to report the magnitude of the change due to a change in  
2 scope. Registrants may record verified revised emissions inventories  
3 for prior years to conform with current protocols or current scope.

4 (b) Registrants shall separately identify within their annual  
5 emissions inventories any rights or ownership to emissions or emissions  
6 credits for that year or between two years, that have been acquired  
7 from or transferred to:

8 (i) Other entities located within or outside the state; or

9 (ii) Within the registrant entity, including its subsidiaries, to  
10 or from locations outside the state that would not otherwise be  
11 included in the annual report to the registry.

12 (c) Registrants shall identify and quantify any portion of the  
13 emissions inventory that is being reported to any other registry of  
14 greenhouse gas emissions, any differences between the reports and the  
15 name and address of the other registry.

16 NEW SECTION. **Sec. 8.** (1) Emissions inventories recorded with the  
17 registry shall be verified, at no cost to the registrant, by a third-  
18 party organization or person qualified under subsection (2) of this  
19 section to independently verify and attest to the accuracy of the  
20 emissions results reported to the registry each year.

21 (2) The center shall, through a public process, develop a procedure  
22 for identifying and qualifying organizations or persons recognized by  
23 the registry as competent to verify an emissions inventory and able to  
24 provide an opinion as to its consistency, completeness, and accuracy  
25 that is independent and free from conflict of interest. The center may  
26 limit its recognition of the organization or person to specific areas  
27 of competency. The center shall reopen the qualification process  
28 periodically to enable new organizations and persons to be added to the  
29 list.

30 (3) An organization or person approved under subsection (2) of this  
31 section shall:

32 (a) Review a registrant's energy usage records and such other  
33 records as are necessary to verify its emissions inventory;

34 (b) Determine that the protocols of the registry have been  
35 followed;

36 (c) If necessary to establish or confirm emissions or normalization



1 rates or quantities, require additional analyses, direct measurements,  
2 monitoring, or testing; and

3 (d) After noting adjustments or otherwise accounting for any  
4 changes in the scope of the entity, summarize its review in a report to  
5 the appropriate executive or governing body of the registrant for the  
6 portion of the entity that is submitting the emissions inventory, and  
7 attesting to the accuracy of the reported emissions results, but noting  
8 any exceptions, omissions, limitations, or other qualifications to  
9 their representation of consistency, completeness, and accuracy.

10 (4) The center shall periodically perform a review and evaluation  
11 of registrants' emissions inventories and documentation and the  
12 performance of verifiers on its list. It shall record any findings  
13 from the reviews and evaluations in writing with the registry and shall  
14 include the findings in its annual report to the governor and the  
15 legislature required under section 10 of this act.

16 NEW SECTION. **Sec. 9.** (1) The center shall, through a public  
17 process, develop a procedure for identifying and qualifying third-party  
18 organizations or persons competent to provide technical assistance and  
19 advice in any or all of the areas of measuring, monitoring, and  
20 calculating greenhouse gas emissions, setting industry-specific  
21 emissions reduction targets, and developing and implementing energy  
22 efficiency improvement programs appropriate to various industries and  
23 economic sectors.

24 (2) The center shall adopt a list of organizations or persons  
25 recognized by the center as competent to carry out the responsibilities  
26 described in subsection (1) of this section. The center may limit its  
27 recognition of the organization or person to specific areas of  
28 competency. The center shall reopen the qualification process  
29 periodically to enable new organizations and persons to be added to the  
30 list.

31 NEW SECTION. **Sec. 10.** By July 1, 2005, the center shall report  
32 to the governor and the appropriate committees of the legislature on  
33 the number of organizations participating in the registry, the  
34 percentage of the state's emissions represented by the participants in  
35 the registry, and the reductions in greenhouse gas emissions achieved  
36 by those participants.

1        NEW SECTION.    **Sec. 11.** If a mandatory federal greenhouse gas  
2 emissions registry is enacted, the director of the center will report  
3 back to the legislature as soon as practical on any conflicts with this  
4 chapter. The center shall certify the date on which a mandatory  
5 federal greenhouse gas registry becomes operational. As of the date  
6 certified by the center, the center shall no longer accept emissions  
7 inventories for registration with the state greenhouse gas emissions  
8 registry.

9        NEW SECTION.    **Sec. 12.** A new section is added to chapter 42.17 RCW  
10 to read as follows:

11        Documentation received by the Washington climate and rural energy  
12 development center for emissions inventories recorded with the  
13 Washington climate action registry under sections 7 and 8 of this act  
14 is exempt from disclosure under this chapter.

15        NEW SECTION.    **Sec. 13.** Sections 1 through 11 of this act  
16 constitute a new chapter in Title 70 RCW.

--- END ---