

# HOUSE BILL REPORT

## SSB 5343

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**As Reported by House Committee On:**  
Environment

**Title:** An act relating to air emissions from anaerobic digesters.

**Brief Description:** Concerning air emissions from anaerobic digesters.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Delvin, Hatfield, Honeyford, Becker, Shin and Schoesler).

**Brief History:**

**Committee Activity:**

Environment: 3/22/11, 3/24/11 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by House)**

- Requires the Department of Ecology to adopt rules, by January 1, 2012, establishing permitting criteria under the state Clean Air Act for generators fueled by biogas produced by certain anaerobic digesters.

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### HOUSE COMMITTEE ON ENVIRONMENT

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Fitzgibbon, Jinkins, Morris, Moscoso, Nealey, Pearson, Takko, Taylor and Tharinger.

**Staff:** Courtney Barnes (786-7194).

**Background:**

Air Quality.

Activities affecting Washington's air quality are regulated at federal, state, and local levels. The federal Clean Air Act (federal CAA) establishes both policies for protecting air quality and specific requirements applicable to states and to industries. National Ambient Air

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Quality Standards (NAAQS) have been established under the authority of the federal CAA. The federal CAA requires states to take action to improve air quality in areas that do not attain NAAQS and to maintain air quality in areas that do. The federal CAA also sets technology-based standards applicable to many individual sources of air pollution.

Washington fulfills its responsibility under the federal CAA through the Washington Clean Air Act (state CAA). The state CAA vests authority to regulate air quality in the Department of Ecology (DOE), the Energy Facility Site Evaluation Council (EFSEC), and any of seven local air authorities in the state. Generally, local air authorities conduct most of the air quality enforcement actions in Washington, and the local air authorities have the power to adopt emission standards more stringent than the state's standards. The DOE, the EFSEC, and local air agencies may adopt and amend rules necessary to enforce the requirements of the state CAA.

### Anaerobic Digestion.

Anaerobic digestion is the bacterial breakdown of organic materials in the absence of oxygen. This biological process produces biogas, which is principally composed of methane and carbon dioxide. Biogas is typically produced from feed stocks such as sewage sludge, livestock manure, and wet organic materials. Anaerobic digesters are devices that use the natural process of anaerobic digestion to treat waste, produce energy, or both.

An anaerobic digester that complies with certain conditions specified in statute is exempt from solid waste permitting requirements.

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### **Summary of Amended Bill:**

By January 1, 2012, the DOE is required to adopt rules establishing permitting criteria, under the state CAA, of statewide applicability for generators fueled solely by biogas produced by anaerobic digesters that qualify for the statutory solid waste permitting exemption.

"Generator" means an internal combustion engine that converts biogas into electricity, and includes any backup combustion device to burn biogas when an engine is idled for maintenance.

The rules adopted by the DOE must specify criteria levels:

- below which generators are not subject to permitting requirements under the state CAA;
- within which generators are subject to permitting requirements under the state CAA but qualify for a general permit; and
- above which generators are subject to permitting requirements under the state CAA but do not qualify for a general permit.

The rules adopted by the DOE must also address:

- general permit standards, including design, operation, and location parameters; and
- monitoring requirements to ensure continuing compliance with the DOE's rules.

### **Amended Bill Compared to Substitute Bill:**

The amended bill removes all of the changes made in the substitute bill. Under the amended bill, the DOE is required to adopt rules establishing permitting criteria for generators fueled by biogas produced by anaerobic digesters. The amended bill also adds an emergency clause.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 24, 2011.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

### **Staff Summary of Public Testimony:**

(In support) Current permitting requirements under the state CAA create significant regulatory burdens for small renewable energy facilities on family farms. The bill would exempt certain anaerobic digesters operating on farmland. The bill is important because it will remove unnecessary regulatory barriers on the farming community. This exemption will allow farms to handle manure in a more efficient process.

(In support with concerns) The bill should be amended to include additional types of feed stocks, including food and yard waste. The amendment would ensure that all anaerobic digesters are treated equally.

(With concerns) Local air agencies are imposing the same permitting requirements as the U.S. Environmental Protection Agency (EPA). The bill does not provide any certainty for those operating anaerobic digesters because the EPA can always require these generators to have a permit, even if they are exempt from permitting under the state CAA.

Currently, some anaerobic digesters are having trouble receiving a permit because their sulfur dioxide emissions exceed the federal standards. The bill should be held for a year to see if local air authorities and those operating anaerobic digesters can reach a mutual agreement on the permitting requirements. At the very least, the bill should be amended to require the DOE to adopt rules for permitting anaerobic digesters instead of creating an exemption in statute.

(Opposed) None.

**Persons Testifying:** (In support) Daryl Maas, Farm Power Northwest LLC.

(In support with concerns) Ken Johnson, Puget Sound Energy.

(With concerns) Dick Little, Northwest Clean Air Agency; Marcia Fromhold, Puget Sound Clean Air Agency; and Marshall Taylor, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.