
SENATE BILL 5321

State of Washington

63rd Legislature

2013 Regular Session

By Senator Ericksen

Read first time 01/25/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to harmonizing state greenhouse gas reporting
2 requirements with federal requirements; and amending RCW 70.94.151.

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

4 **Sec. 1.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to read
5 as follows:

6 (1) The board of any activated authority or the department, may
7 classify air contaminant sources, by ordinance, resolution, rule or
8 regulation, which in its judgment may cause or contribute to air
9 pollution, according to levels and types of emissions and other
10 characteristics which cause or contribute to air pollution, and may
11 require registration or reporting or both for any such class or
12 classes. Classifications made pursuant to this section may be for
13 application to the area of jurisdiction of such authority, or the state
14 as a whole or to any designated area within the jurisdiction, and shall
15 be made with special reference to effects on health, economic and
16 social factors, and physical effects on property.

17 (2) Except as provided in subsection (3) of this section, any
18 person operating or responsible for the operation of air contaminant
19 sources of any class for which the ordinances, resolutions, rules or

1 regulations of the department or board of the authority, require
2 registration or reporting shall register therewith and make reports
3 containing information as may be required by such department or board
4 concerning location, size and height of contaminant outlets, processes
5 employed, nature of the contaminant emission and such other information
6 as is relevant to air pollution and available or reasonably capable of
7 being assembled. (~~In the case of emissions of greenhouse gases as
8 defined in RCW 70.235.010 the department shall adopt rules requiring
9 reporting of those emissions.~~) The department or board may require
10 that such registration or reporting be accompanied by a fee, and may
11 determine the amount of such fee for such class or classes: PROVIDED,
12 That the amount of the fee shall only be to compensate for the costs of
13 administering such registration or reporting program which shall be
14 defined as initial registration and annual or other periodic reports
15 from the source owner providing information directly related to air
16 pollution registration, on-site inspections necessary to verify
17 compliance with registration requirements, data storage and retrieval
18 systems necessary for support of the registration program, emission
19 inventory reports and emission reduction credits computed from
20 information provided by sources pursuant to registration program
21 requirements, staff review, including engineering or other reliable
22 analysis for accuracy and currentness, of information provided by
23 sources pursuant to registration program requirements, clerical and
24 other office support provided in direct furtherance of the registration
25 program, and administrative support provided in directly carrying out
26 the registration program: PROVIDED FURTHER, That any such registration
27 made with either the board or the department shall preclude a further
28 registration and reporting with any other board or the department(~~(
29 except that emissions of greenhouse gases as defined in RCW 70.235.010
30 must be reported as required under subsection (5) of this section)~~).

31 All registration program and reporting fees collected by the
32 department shall be deposited in the air pollution control account.
33 All registration program fees collected by the local air authorities
34 shall be deposited in their respective treasuries.

35 (3) If a registration or report has been filed for a grain
36 warehouse or grain elevator as required under this section,
37 registration, reporting, or a registration program fee shall not, after
38 January 1, 1997, again be required under this section for the warehouse

1 or elevator unless the capacity of the warehouse or elevator as listed
2 as part of the license issued for the facility has been increased since
3 the date the registration or reporting was last made. If the capacity
4 of the warehouse or elevator listed as part of the license is
5 increased, any registration or reporting required for the warehouse or
6 elevator under this section must be made by the date the warehouse or
7 elevator receives grain from the first harvest season that occurs after
8 the increase in its capacity is listed in the license.

9 This subsection does not apply to a grain warehouse or grain
10 elevator if the warehouse or elevator handles more than ten million
11 bushels of grain annually.

12 (4) For the purposes of subsection (3) of this section:

13 (a) A "grain warehouse" or "grain elevator" is an establishment
14 classified in standard industrial classification (SIC) code 5153 for
15 wholesale trade for which a license is required and includes, but is
16 not limited to, such a licensed facility that also conducts cleaning
17 operations for grain;

18 (b) A "license" is a license issued by the department of
19 agriculture licensing a facility as a grain warehouse or grain elevator
20 under chapter 22.09 RCW or a license issued by the federal government
21 licensing a facility as a grain warehouse or grain elevator for
22 purposes similar to those of licensure for the facility under chapter
23 22.09 RCW; and

24 (c) "Grain" means a grain or a pulse.

25 (5)(a) ~~((The department shall adopt rules requiring persons to
26 report emissions of greenhouse gases as defined in RCW 70.235.010 where
27 those emissions from a single facility, source, or site, or from fossil
28 fuels sold in Washington by a single supplier meet or exceed ten
29 thousand metric tons of carbon dioxide equivalent annually. The
30 department may phase in the requirement to report greenhouse gas
31 emissions until the reporting threshold in this subsection is met,
32 which must occur by January 1, 2012. In addition, the rules must
33 require that:~~

34 ~~(i) Emissions of greenhouse gases resulting from the combustion of
35 fossil fuels be reported separately from emissions of greenhouse gases
36 resulting from the combustion of biomass;~~

37 ~~(ii) Reporting will start in 2010 for 2009 emissions. Each annual
38 report must include emissions data for the preceding calendar year and~~

1 ~~must be submitted to the department by October 31st of the year in~~
2 ~~which the report is due. However, starting in 2011, a person who is~~
3 ~~required to report greenhouse gas emissions to the United States~~
4 ~~environmental protection agency under 40 C.F.R. Part 98, as adopted on~~
5 ~~September 22, 2009, must submit the report required under this section~~
6 ~~to the department concurrent with the submission to the United States~~
7 ~~environmental protection agency. Except as otherwise provided in this~~
8 ~~section, the data for emissions in Washington and any corrections~~
9 ~~thereto that are reported to the United States environmental protection~~
10 ~~agency must be the emissions data reported to the department; and~~

11 ~~(iii) Emissions of carbon dioxide associated with the complete~~
12 ~~combustion or oxidation of liquid motor vehicle fuel, special fuel, or~~
13 ~~aircraft fuel that is sold in Washington where the annual emissions~~
14 ~~associated with that combustion or oxidation equal or exceed ten~~
15 ~~thousand metric tons be reported to the department. Each person who is~~
16 ~~required to file periodic tax reports of motor vehicle fuel sales under~~
17 ~~RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each~~
18 ~~distributor of aircraft fuel required to file periodic tax reports~~
19 ~~under RCW 82.42.040 must report to the department the annual emissions~~
20 ~~of carbon dioxide from the complete combustion or oxidation of the~~
21 ~~fuels listed in those reports as sold in the state of Washington. The~~
22 ~~department shall not require suppliers to use additional data to~~
23 ~~calculate greenhouse gas emissions other than the data the suppliers~~
24 ~~report to the department of licensing. The rules may allow this~~
25 ~~information to be aggregated when reported to the department. The~~
26 ~~department and the department of licensing shall enter into an~~
27 ~~interagency agreement to ensure proprietary and confidential~~
28 ~~information is protected if the departments share reported information.~~
29 ~~Any proprietary or confidential information exempt from disclosure when~~
30 ~~reported to the department of licensing is exempt from disclosure when~~
31 ~~shared by the department of licensing with the department under this~~
32 ~~provision.~~

33 ~~(b)(i) Except as otherwise provided in this subsection, the rules~~
34 ~~adopted by the department under (a) of this subsection must be~~
35 ~~consistent with the regulations adopted by the United States~~
36 ~~environmental protection agency in 40 C.F.R. Part 98 on September 22,~~
37 ~~2009.~~

1 ~~(ii) The department may by rule include additional gases to the~~
2 ~~definition of "greenhouse gas" in RCW 70.235.010 only if the gas has~~
3 ~~been designated as a greenhouse gas by the United States congress or by~~
4 ~~the United States environmental protection agency. Prior to including~~
5 ~~additional gases to the definition of "greenhouse gas" in RCW~~
6 ~~70.235.010, the department shall notify the appropriate committees of~~
7 ~~the legislature. Decisions to amend the rule to include additional~~
8 ~~gases must be made prior to December 1st of any year and the amended~~
9 ~~rule may not take effect before the end of the regular legislative~~
10 ~~session in the next year.~~

11 ~~(iii) The department may by rule exempt persons who are required to~~
12 ~~report greenhouse gas emissions to the United States environmental~~
13 ~~protection agency and who emit less than ten thousand metric tons~~
14 ~~carbon dioxide equivalent annually.~~

15 ~~(iv) The department must establish a methodology for persons who~~
16 ~~are not required to report under this section to voluntarily report~~
17 ~~their greenhouse gas emissions.~~

18 ~~(c) The department shall review and if necessary update its rules~~
19 ~~whenever the United States environmental protection agency adopts final~~
20 ~~amendments to 40 C.F.R. Part 98 to ensure consistency with federal~~
21 ~~reporting requirements for emissions of greenhouse gases. However, the~~
22 ~~department shall not amend its rules in a manner that conflicts with~~
23 ~~(a) of this subsection.~~

24 ~~(d))~~ A person who is required to report greenhouse gas emissions
25 to the United States environmental protection agency under 40 C.F.R.
26 Part 98, as adopted on September 22, 2009, must submit the report to
27 the department concurrent with the submission to the United States
28 environmental protection agency.

29 (b) The department shall share ~~((any reporting information~~
30 ~~reported))~~ greenhouse gas emissions reports required by the United
31 States environmental protection agency submitted to it with the local
32 air authority in which the person reporting ((under the rules adopted
33 by the department)) operates.

34 ~~((c) The fee provisions in subsection (2) of this section apply to~~
35 ~~reporting of emissions of greenhouse gases. Persons required to report~~
36 ~~under (a) of this subsection who fail to report or pay the fee required~~
37 ~~in subsection (2) of this section are subject to enforcement penalties~~
38 ~~under this chapter. The department shall enforce the reporting rule~~

1 requirements unless it approves a local air authority's request to
2 enforce the requirements for persons operating within the authority's
3 jurisdiction. However, neither the department nor a local air
4 authority approved under this section are authorized to assess
5 enforcement penalties on persons required to report under (a) of this
6 subsection until six months after the department adopts its reporting
7 rule in 2010.

8 (f) The energy facility site evaluation council shall,
9 simultaneously with the department, adopt rules that impose greenhouse
10 gas reporting requirements in site certifications on owners or
11 operators of a facility permitted by the energy facility site
12 evaluation council. The greenhouse gas reporting requirements imposed
13 by the energy facility site evaluation council must be the same as the
14 greenhouse gas reporting requirements imposed by the department. The
15 department shall share any information reported to it from facilities
16 permitted by the energy facility site evaluation council with the
17 council, including notice of a facility that has failed to report as
18 required. The energy facility site evaluation council shall contract
19 with the department to monitor the reporting requirements adopted under
20 this section.

21 (g) The inclusion or failure to include any person, source, classes
22 of persons or sources, or types of emissions of greenhouse gases into
23 the department's rules for reporting under this section does not
24 indicate whether such a person, source, or category is appropriate for
25 inclusion in state, regional, or national greenhouse gas reduction
26 programs or strategies. Furthermore, aircraft fuel purchased in the
27 state may not be considered equivalent to aircraft fuel combusted in
28 the state.

29 (h)(i) The definitions in RCW 70.235.010 apply throughout this
30 subsection (5) unless the context clearly requires otherwise.

31 (ii) For the purpose of this subsection (5), the term "supplier"
32 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel
33 importer, as those terms are defined in RCW 82.36.010; (B) a special
34 fuel supplier or a special fuel importer, as those terms are defined in
35 RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms
36 are defined in RCW 82.42.010.

37 (iii) For the purpose of this subsection (5), the term "person"
38 includes: (A) An owner or operator, as those terms are defined by the

1 ~~United States environmental protection agency in its mandatory~~
2 ~~greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on~~
3 ~~September 22, 2009; and (B) a supplier.))~~

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