

SENATE BILL REPORT

SB 5196

As of January 26, 2017

Title: An act relating to including certain cattle feedlots within the statutory exemption for odor or fugitive dust caused by agricultural activity.

Brief Description: Including cattle feedlots implementing best management practices within the statutory exemption for odor or fugitive dust caused by agricultural activity.

Sponsors: Senators Warnick, Hobbs, Takko, King, Chase and Honeyford.

Brief History:

Committee Activity: Agriculture, Water, Trade & Economic Development: 1/26/17.

Brief Summary of Bill

- Exempts cattle feedlots that meet certain requirements from the Washington Clean Air Act's registration requirements, certain permit requirements, and new source requirements.

SENATE COMMITTEE ON AGRICULTURE, WATER, TRADE & ECONOMIC DEVELOPMENT

Staff: Karen Epps (786-7424)

Background: Clean Air Act Requirements. The Washington Clean Air Act (the Act) regulates outdoor air pollution. The Act establishes a system of regional air pollution control authorities to implement federal and state air pollution control regulations. Air pollution control regulations address emission of air contaminants that injure health or unreasonably interfere with enjoyment of life and property. The Act directs the Department of Ecology (Ecology) or the local air pollution control authorities to require permits for certain operating sources of air pollutants and allows the state and these local agencies to impose registration requirements on sources of other air pollutants.

The Act exempts odors caused by agricultural activities consistent with good agricultural practices on agricultural land unless the odors have a substantial adverse effect on public health. Agricultural activity is defined for these purposes as the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, grain, mint, hay,

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and dairy products. Before issuing a notice of violation under the air pollution control statutes for an agricultural activity, Ecology or local air pollution control authority is required to consult with a recognized third-party expert in the activity to determine whether the activity is consistent with good agricultural practices.

Fugitive dust caused by agricultural activity on agricultural land that is consistent with good agricultural practices is exempted from the Act standards. Fugitive dust is defined as particulate emission made airborne by human activity, forces of wind, or both, which does not pass through a stack, chimney, vent, or similar opening. The fugitive dust exemption does not apply to facilities subject to the Act's registration requirements as specified in current administrative rules and to specified statutory permit requirements and new source requirements.

Summary of Bill: Cattle feedlots that implement best management practices pursuant to the feedlot's fugitive dust control plan are exempt from the Act's registration requirements as specified in current administrative rules and to specified statutory permit requirements and new source requirements.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Currently cattle feedlots are not exempt in the same way as other agricultural activities are under the Clean Air Act. Eastern Washington is dusty and neighbors are aware when cattle is being moved from one pen to another, but dust does not stay. It makes sense to include cattle feedlots in the same way as other agricultural producers. Fugitive dust control guidelines were approved and agreed to by both the feeders and Ecology in 1995. These guidelines are still in place and clarify what constitutes what reasonable precautions a feedlot must do to minimize emissions of fugitive dust. The primary mechanism is to identify best management practices for fugitive dust control and develop flexible, site-specific fugitive dust control plans.

This bill would exempt cattle feedlots from the fugitive dust control regulatory requirements under the Clean Air Act if a facility has an approved dust control plan in place and is implementing best management practices. Some of standards that Ecology is asking feedlots to meet are identical to those standards that could be measured at a smokestack. A tractor working ground on the agricultural side of a farm can make dust but if the feed truck drives by the tractor and makes dust, the feedlot is in violation. There has been frustration with how Ecology's Spokane office has been applying these rules to the cattle feeders. The interpretation of these rules threatens a \$3.6 billion industry in Washington without any corresponding benefit to the environment and without any means for cattle feeders to ensure compliance with the interpretation of these rules. Currently, state law exempts virtually all other agricultural activity from a no tolerance dust standard if the activity is conducted consistently with good agricultural practices and provided the activity does not have a

substantial affect on public health. This bill is important because cattle feeders are part of agriculture and should be able to operate under the same rules, while still doing best management plans and fugitive dust control plans.

CON: This bill will restrict Ecology's ability and authority to address real public health concerns from cattle feeding operations. This bill will also impact Ecology's ability to maintain compliance with federal law. There are significant concerns with and exposure to emissions from cattle feedlots. Ecology's estimates for emissions from a 10,000 head feedlot is approximately 100 tons of fine particulate emissions per year. The proposed legislation could cause confusion and is unclear; the terms cattle feedlot, best management practices, and fugitive dust control plan are not defined. Adoption of this bill would require justification to EPA and EPA's approval to make the change. This justification may not be feasible based on the large emissions from these feedlot operations.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Jack Field, WA Cattle Feeders Assoc.; Ed Field, WA Cattle Feeders Assoc.; Rob Miller, AgriBeef Co., President, WCFA; Bill Easterday, Easterday Ranches; Camas Uebelacker, C & G Cattle Co.; Michael Para, Para Livestock; Jayne Davis, AgriBeef Co.; Evan Sheffels, WA Cattlemen's Assoc., WA Farm Bureau.

CON: Stu Clark, Ecology.

Persons Signed In To Testify But Not Testifying: No one.