
SUBSTITUTE HOUSE BILL 2265 (Corrected Copy)

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Doglio, Leavitt, Shewmake, Duerr, Fey, Peterson, and Pollet)

READ FIRST TIME 02/03/20.

1 AN ACT Relating to eliminating exemptions from restrictions on
2 the use of perfluoroalkyl and polyfluoroalkyl substances in
3 firefighting foam; and amending RCW 70.75A.020.

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

5 **Sec. 1.** RCW 70.75A.020 and 2018 c 286 s 3 are each amended to
6 read as follows:

7 (1) Beginning July 1, 2020, a manufacturer of class B
8 firefighting foam may not manufacture, knowingly sell, offer for
9 sale, distribute for sale, or distribute for use in this state class
10 B firefighting foam to which PFAS chemicals have been intentionally
11 added.

12 (2) (a) The restrictions in subsection (1) of this section do not
13 apply to any manufacture, sale, or distribution of class B
14 firefighting foam where the inclusion of PFAS chemicals are required
15 by federal law, including but not limited to the requirements of
16 C.F.R. 139.317, as that section existed as of January 1, 2018.

17 (b) In the event that the requirements of 14 C.F.R. Sec. 139.317
18 or other applicable federal regulations change after January 1, 2018,
19 to allow the use of alternative firefighting agents that do not
20 contain PFAS chemicals, then ~~((the department may adopt rules that~~
21 ~~restrict PFAS chemicals for the manufacture, sale, and distribution~~

1 ~~of firefighting foam for uses that are addressed by the federal~~
2 ~~regulation)) as of the effective date of that change, the department~~
3 ~~shall publish a finding to that effect in the Washington State~~
4 ~~Register and submit this finding to the appropriate committees of the~~
5 ~~house of representatives and the senate. The department's publication~~
6 ~~regarding a change in the federal regulations must be specific with~~
7 ~~respect to the involved federal agency and use and, if identified by~~
8 ~~the federal agency, the alternative firefighting agent. Three hundred~~
9 ~~sixty-five days after publication in the Washington State Register,~~
10 ~~the restrictions of subsection (1) of this section apply to the~~
11 ~~manufacture, sale, and distribution of class B firefighting foam that~~
12 ~~contains intentionally added PFAS chemicals for the uses specified in~~
13 ~~14 C.F.R. Sec. 139.317 or other applicable federal regulations.~~

14 (3) (a) The restrictions in subsection (1) of this section do not
15 apply until January 1, 2024, to any manufacture, sale, or
16 distribution of class B firefighting foam to a person for use at a
17 terminal, as defined in RCW 82.23A.010, operated by the person or an
18 oil refinery operated by the person.

19 (b) A person who operates a refinery or terminal may apply to the
20 department for a waiver. A waiver may only be for two years and may
21 only be extended by the department for one additional two-year term.
22 The department may grant a waiver if the applicant provides:

23 (i) Clear and convincing evidence that there is no commercially
24 available replacement that does not contain intentionally added PFAS
25 chemicals that is capable of suppressing a large atmospheric storage
26 tank fire;

27 (ii) Information on the amount of firefighting foam containing
28 intentionally added PFAS chemicals stored, used, or released on site
29 on an annual basis;

30 (iii) A report on the progress being made by the operator of the
31 terminal or refinery to transition to use of firefighting foam at the
32 facility that does not contain intentionally added PFAS chemicals;
33 and

34 (iv) An explanation of how all releases of firefighting foam will
35 be fully contained on site and how existing containment measures will
36 not allow firewater, wastewater, runoff, and other wastes to be
37 released to the environment including, but not limited to, soils,
38 groundwater, waterways, and stormwater.

1 (c) Nothing in this section prohibits an oil refinery or terminal
2 from providing class B firefighting foam in the form of mutual aid to
3 another refinery or terminal in the event of a class B fire.

4 (4) The restrictions in subsection (1) of this section do not
5 apply until January 1, 2024, to any manufacture, sale, or
6 distribution of class B firefighting foam to a person for use at a
7 chemical plant operated by the person.

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