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**HOUSE BILL 2073**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Slatter, Fitzgibbon, Berry, Reed, Ramel, Doglio, Hackney, and Pollet

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1 AN ACT Relating to emissions of greenhouse gases from sources  
2 other than methane and carbon dioxide; amending RCW 70A.45.010 and  
3 70A.15.2200; adding a new section to chapter 43.21A RCW; creating new  
4 sections; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that a great  
7 deal of emphasis in greenhouse gas emissions policymaking in the  
8 state has appropriately focused on reducing sources of carbon  
9 dioxide, methane, and refrigerant gases, which remain the most  
10 significant types of greenhouse gases emitted in the state. However,  
11 the legislature also finds it prudent not to overlook meaningful  
12 opportunities to reduce emissions of other types of greenhouse gases  
13 from more niche sources, whether they be used as pesticides or as  
14 anesthetic gases.

15 (a) The legislature finds that certain gases used as an  
16 anesthetic in medical, dental, and veterinary contexts, including  
17 desflurane, isoflurane, sevoflurane, halothane, and nitrous oxide,  
18 are potent greenhouse gases. Efforts in the medical community are  
19 already underway to minimize the emissions from these gases,  
20 including by national and international anesthesiologist  
21 associations. In other jurisdictions, including Scotland and England,

1 efforts are also underway to phase out the use of the anesthetic  
2 gases with the greatest potential greenhouse gas emissions.

3 (b) The legislature finds that sulfuranyl fluoride, a chemical  
4 typically used as a fumigant pesticide, was relatively recently  
5 discovered to be a potent greenhouse gas. Due to the recency of these  
6 scientific findings, emissions of this gas have not previously been  
7 required to be reported to the department of ecology in a manner  
8 similar to other greenhouse gases like carbon dioxide and methane. In  
9 addition, it is uncertain whether any safer alternatives to sulfuranyl  
10 fluoride exist that do not result in greenhouse gas emissions or that  
11 would result in lower greenhouse gas emissions.

12 (2) Therefore, it is the intent of the legislature to reduce  
13 emissions from these sources of greenhouse gases, in spite of their  
14 obscurity, by:

15 (a) Studying these gases;

16 (b) Developing guidance to reduce emissions of greenhouse gases  
17 used for anesthetic purposes; and

18 (c) Initiating data gathering and alternatives evaluations for  
19 the use of sulfuranyl fluoride.

20 NEW SECTION. **Sec. 2.** (1) The department of ecology must  
21 commission a study to be completed by July 1, 2025, that:

22 (a) Analyzes the evidence supporting the inclusion of sulfuranyl  
23 fluoride as a greenhouse gas;

24 (b) Determines the potential sources of sulfuranyl fluoride and  
25 gases with a high global warming potential that are used for  
26 anesthetic purposes within Washington;

27 (c) Determines how these gases are used in Washington;

28 (d) Estimates the quantity of emissions;

29 (e) Recommends potential points of regulation for each of these  
30 gases; and

31 (f) Recommends measures for reducing or eliminating emissions of  
32 these gases.

33 (2) By October 1, 2025, the department of ecology, in  
34 consultation with the department of health and considering the  
35 results of the study commissioned under subsection (1) of this  
36 section and the alternatives assessment carried out consistent with  
37 section 6 of this act, must submit recommendations to the appropriate  
38 committees of the legislature regarding any further statutory changes  
39 needed in order to appropriately and effectively reduce greenhouse

1 gas emissions associated with the use of sulfuryl fluoride or  
2 anesthetic gases, including any recommendations to prohibit the  
3 manufacture, distribution, sale, or use of specific anesthetic gases.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21A  
5 RCW to read as follows:

6 (1) By January 1, 2026, the department must develop and publish a  
7 guidance document intended to reduce greenhouse gas emissions  
8 associated with the use of gases with a high global warming potential  
9 that are used for anesthetic purposes in medical, dental, veterinary,  
10 or other similar facilities and settings. Gases subject to the  
11 guidance document must include, at minimum: Sevoflurane; desflurane;  
12 isoflurane; halothane; and nitrous oxide. In developing the guidance  
13 document, the department of ecology must consult with the department  
14 of health, and solicit the input from the following:

- 15 (a) The state board of health;
- 16 (b) The Washington medical commission;
- 17 (c) The Washington state board of nursing;
- 18 (d) The dental quality assurance commission;
- 19 (e) The board of osteopathic medicine and surgery;
- 20 (f) The veterinary board of governors;
- 21 (g) Associations representing medical, dental, or veterinary  
22 practitioners that use anesthetic gases;
- 23 (h) Associations representing facilities at which anesthetic  
24 gases are used;
- 25 (i) Environmental organizations with a focus on efforts to reduce  
26 greenhouse gas emissions; and
- 27 (j) Subject matter experts with knowledge of the most efficient  
28 and effective methods to reduce greenhouse gas emissions from  
29 anesthetic gas use.

30 (2) In developing the guidance document, the department must  
31 consider:

- 32 (a) The efforts of other jurisdictions, including those in  
33 Europe, to restrict the use of high global warming potential  
34 greenhouse gases or to otherwise reduce greenhouse gas emissions  
35 associated with the use of anesthesia;
- 36 (b) The guidance documents or best practices prepared by national  
37 and international anesthesiology professionals, including the  
38 American society of anesthesiologists, the world federation of  
39 societies of anaesthesiologists, and the association of anesthesiologists;

1 and guidance documents published in peer-reviewed medical journals;  
2 and

3 (c) Existing practices in place at facilities and by  
4 practitioners in Washington to limit greenhouse gas emissions  
5 associated with anesthesia use.

6 (3) The goal of the guidance document must be to reduce  
7 greenhouse gas emissions associated with the use of anesthetic gases,  
8 but without unduly limiting the judgment or needs of medical, dental,  
9 or veterinary professionals in providing safe and effective care.

10 (4) By July 1, 2026, facilities at which anesthetic gases are  
11 used, and the medical, dental, or veterinary practitioners that use  
12 such gases, may only use anesthesia in a manner consistent with the  
13 guidance document published under this section.

14 **Sec. 4.** RCW 70A.45.010 and 2021 c 315 s 3 are each amended to  
15 read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Carbon dioxide equivalents" means a metric measure used to  
19 compare the emissions from various greenhouse gases based upon their  
20 global warming potential.

21 (2) "Carbon sequestration" means the process of capturing and  
22 storing atmospheric carbon dioxide through biologic, chemical,  
23 geologic, or physical processes.

24 (3) "Climate advisory team" means the stakeholder group formed in  
25 response to executive order 07-02.

26 (4) "Climate impacts group" means the University of Washington's  
27 climate impacts group.

28 (5) "Department" means the department of ecology.

29 (6) "Director" means the director of the department.

30 (7) "Greenhouse gas" and "greenhouse gases" includes carbon  
31 dioxide, methane, nitrous oxide, hydrofluorocarbons,  
32 perfluorocarbons, sulfur hexafluoride, sulfuryl fluoride, and any  
33 other gas or gases designated by the department by rule.

34 (8) "Person" means an individual, partnership, franchise holder,  
35 association, corporation, a state, a city, a county, or any  
36 subdivision or instrumentality of the state.

37 (9) "Program" means the department's climate change program.

38 (10) "Western climate initiative" means the collaboration of  
39 states, Canadian provinces, Mexican states, and tribes to design a

1 multisector market-based mechanism as directed under the western  
2 regional climate action initiative signed by the governor on February  
3 22, 2007.

4 **Sec. 5.** RCW 70A.15.2200 and 2022 c 181 s 9 are each amended to  
5 read 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  
14 state as a whole or to any designated area within the jurisdiction,  
15 and shall be made with special reference to effects on health,  
16 economic and 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  
20 regulations of the department or board of the authority, require  
21 registration or reporting shall register therewith and make reports  
22 containing information as may be required by such department or board  
23 concerning location, size and height of contaminant outlets,  
24 processes employed, nature of the contaminant emission and such other  
25 information as is relevant to air pollution and available or  
26 reasonably capable of being assembled. In the case of emissions of  
27 greenhouse gases as defined in RCW 70A.45.010 the department shall  
28 adopt rules requiring reporting of those emissions. The department or  
29 board may require that such registration or reporting be accompanied  
30 by a fee, and may determine the amount of such fee for such class or  
31 classes: PROVIDED, That the amount of the fee shall only be to  
32 compensate for the costs of administering such registration or  
33 reporting program which shall be defined as initial registration and  
34 annual or other periodic reports from the source owner providing  
35 information directly related to air pollution registration, on-site  
36 inspections necessary to verify compliance with registration  
37 requirements, data storage and retrieval systems necessary for  
38 support of the registration program, emission inventory reports and  
39 emission reduction credits computed from information provided by

1 sources pursuant to registration program requirements, staff review,  
2 including engineering or other reliable analysis for accuracy and  
3 currentness, of information provided by sources pursuant to  
4 registration program requirements, clerical and other office support  
5 provided in direct furtherance of the registration program, and  
6 administrative support provided in directly carrying out the  
7 registration program: PROVIDED FURTHER, That any such registration  
8 made with either the board or the department shall preclude a further  
9 registration and reporting with any other board or the department,  
10 except that emissions of greenhouse gases as defined in RCW  
11 70A.45.010 must be reported as required under subsection (5) of this  
12 section.

13 All registration program and reporting fees collected by the  
14 department shall be deposited in the air pollution control account.  
15 All registration program fees collected by the local air authorities  
16 shall be deposited in their respective treasuries.

17 (3) If a registration or report has been filed for a grain  
18 warehouse or grain elevator as required under this section,  
19 registration, reporting, or a registration program fee shall not,  
20 after January 1, 1997, again be required under this section for the  
21 warehouse or elevator unless the capacity of the warehouse or  
22 elevator as listed as part of the license issued for the facility has  
23 been increased since the date the registration or reporting was last  
24 made. If the capacity of the warehouse or elevator listed as part of  
25 the license is increased, any registration or reporting required for  
26 the warehouse or elevator under this section must be made by the date  
27 the warehouse or elevator receives grain from the first harvest  
28 season that occurs after the increase in its capacity is listed in  
29 the license.

30 This subsection does not apply to a grain warehouse or grain  
31 elevator if the warehouse or elevator handles more than 10,000,000  
32 bushels of grain annually.

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

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

39 (b) A "license" is a license issued by the department of  
40 agriculture licensing a facility as a grain warehouse or grain

1 elevator under chapter 22.09 RCW or a license issued by the federal  
2 government licensing a facility as a grain warehouse or grain  
3 elevator for purposes similar to those of licensure for the facility  
4 under chapter 22.09 RCW; and

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

6 (5)(a) The department shall adopt rules requiring persons to  
7 report emissions of greenhouse gases as defined in RCW 70A.45.010  
8 where those emissions from a single facility, or from electricity or  
9 fossil fuels sold in Washington by a single supplier or local  
10 distribution company, meet or exceed 10,000 metric tons of carbon  
11 dioxide equivalent annually. The rules adopted by the department must  
12 support implementation of the program created in RCW 70A.65.060. In  
13 addition, the rules must require that:

14 (i) Emissions of greenhouse gases resulting from the combustion  
15 of fossil fuels be reported separately from emissions of greenhouse  
16 gases resulting from the combustion of biomass; and

17 (ii) Each annual report must include emissions data for the  
18 preceding calendar year and must be submitted to the department by  
19 March 31st of the year in which the report is due, except for an  
20 electric power entity, which must submit its report by June 1st of  
21 the year in which the report is due. Each annual report must include  
22 emissions data related to sulfur dioxide, beginning with the  
23 reporting required under this section covering calendar year 2025  
24 emissions data.

25 (b)(i) The department may by rule include additional gases to the  
26 definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has  
27 been designated as a greenhouse gas by the United States congress, by  
28 the United States environmental protection agency, or included in  
29 external greenhouse gas emission trading programs with which  
30 Washington has pursuant to RCW 70A.65.210. Prior to including  
31 additional gases to the definition of "greenhouse gas" in RCW  
32 70A.45.010, the department shall notify the appropriate committees of  
33 the legislature.

34 (ii) The department may by rule exempt persons who are required  
35 to report greenhouse gas emissions to the United States environmental  
36 protection agency and who emit less than 10,000 metric tons carbon  
37 dioxide equivalent annually.

38 (iii) The department must establish a methodology for persons who  
39 are not required to report under this section to voluntarily report  
40 their greenhouse gas emissions.

1 (c)(i) The department shall review and if necessary update its  
2 rules whenever:

3 (A) The United States environmental protection agency adopts  
4 final amendments to 40 C.F.R. Part 98 to ensure consistency with  
5 federal reporting requirements for emissions of greenhouse gases; or

6 (B) Needed to ensure consistency with emissions reporting  
7 requirements for jurisdictions with which Washington has entered a  
8 linkage agreement.

9 (ii) The department shall not amend its rules in a manner that  
10 conflicts with this section.

11 (d) The department shall share any reporting information reported  
12 to it with the local air authority in which the person reporting  
13 under the rules adopted by the department operates.

14 (e) The fee provisions in subsection (2) of this section apply to  
15 reporting of emissions of greenhouse gases. Persons required to  
16 report under (a) of this subsection who fail to report or pay the fee  
17 required in subsection (2) of this section are subject to enforcement  
18 penalties under this chapter. The department shall enforce the  
19 reporting rule requirements. When a person that holds a compliance  
20 obligation under RCW 70A.65.080 fails to submit an emissions data  
21 report or fails to obtain a positive emissions data verification  
22 statement in accordance with (g)(ii) of this subsection, the  
23 department may assign an emissions level for that person.

24 (f) The energy facility site evaluation council shall,  
25 simultaneously with the department, adopt rules that impose  
26 greenhouse gas reporting requirements in site certifications on  
27 owners or operators of a facility permitted by the energy facility  
28 site evaluation council. The greenhouse gas reporting requirements  
29 imposed by the energy facility site evaluation council must be the  
30 same as the greenhouse gas reporting requirements imposed by the  
31 department. The department shall share any information reported to it  
32 from facilities permitted by the energy facility site evaluation  
33 council with the council, including notice of a facility that has  
34 failed to report as required. The energy facility site evaluation  
35 council shall contract with the department to monitor the reporting  
36 requirements adopted under this section.

37 (g)(i) The department must establish by rule the methods of  
38 verifying the accuracy of emissions reports.

39 (ii) Verification requirements apply at a minimum to persons  
40 required to report under (a) of this subsection with emissions that



1 equal or exceed 25,000 metric tons of carbon dioxide equivalent  
2 emissions, including carbon dioxide from biomass-derived fuels, or to  
3 persons who have a compliance obligation under RCW 70A.65.080 in any  
4 year of the current compliance period. The department may adopt rules  
5 to accept verification reports from another jurisdiction with a  
6 linkage agreement pursuant to RCW 70A.65.180 in cases where the  
7 department deems that the methods or procedures are substantively  
8 similar.

9 (h) (i) The definitions in RCW 70A.45.010 apply throughout this  
10 subsection (5) unless the context clearly requires otherwise.

11 (ii) For the purpose of this subsection (5), the term "supplier"  
12 includes: (A) Suppliers that produce, import, or deliver, or any  
13 combination of producing, importing, or delivering, a quantity of  
14 fuel products in Washington that, if completely combusted, oxidized,  
15 or used in other processes, would result in the release of greenhouse  
16 gases in Washington equivalent to or higher than the threshold  
17 established under (a) of this subsection; ~~((and))~~ (B) suppliers of  
18 carbon dioxide that produce, import, or deliver a quantity of carbon  
19 dioxide in Washington that, if released, would result in emissions  
20 equivalent to or higher than the threshold established under (a) of  
21 this subsection; and (C) beginning January 1, 2025, persons that  
22 produce or supply sulfuryl fluoride for use in Washington in an  
23 amount that, if released, would result in emissions equivalent to or  
24 greater than the threshold established under (a) of this subsection.

25 (iii) For the purpose of this subsection (5), the term "person"  
26 includes: (A) An owner or operator of a facility; (B) a supplier; or  
27 (C) an electric power entity.

28 (iv) For the purpose of this subsection (5), the term "facility"  
29 includes facilities that directly emit greenhouse gases in Washington  
30 equivalent to the threshold established under (a) of this subsection  
31 with at least one source category listed in the United States  
32 environmental protection agency's mandatory greenhouse gas reporting  
33 regulation, 40 C.F.R. Part 98 Subparts C through II and RR through  
34 UU, as adopted on April 25, 2011.

35 (v) For the purpose of this subsection (5), the term "electric  
36 power entity" includes any of the following that supply electric  
37 power in Washington with associated emissions of greenhouse gases  
38 equal to or above the threshold established under (a) of this  
39 subsection: (A) Electricity importers and exporters; (B) retail  
40 providers, including multijurisdictional retail providers; and (C)

1 first jurisdictional deliverers, as defined in RCW 70A.65.010, not  
2 otherwise included here.

3 NEW SECTION. **Sec. 6.** (1) The department of ecology, in  
4 consultation with the department of agriculture, must identify the  
5 availability and feasibility of safer alternatives to the use of  
6 sulfuryl fluoride as a fumigant. The department of ecology must  
7 solicit the input of potentially affected stakeholders, including  
8 manufacturers, importers, distributors, and users of sulfuryl  
9 fluoride, in carrying out the requirements of this section.

10 (2) The department of ecology may order a manufacturer,  
11 distributor, or importer of sulfuryl fluoride or potential safer  
12 alternatives to submit a notice to the department that contains the  
13 information specified in RCW 70A.430.060 (1) through (6) or other  
14 information relevant to the determination of the volume of a chemical  
15 used, its expected greenhouse gas emissions associated with use, or  
16 to the department's determination of the hazard to human health or  
17 the environment associated with a chemical. The information ordered  
18 under this section must be submitted to the department of ecology no  
19 later than four months after receipt of such a demand from the  
20 department.

21 (3) The department of ecology, in consultation with the  
22 department of agriculture, must submit a report to the appropriate  
23 committees of the legislature containing the findings regarding the  
24 availability of safer alternatives to sulfuryl fluoride, including  
25 recommendations for any actions to reduce sulfuryl fluoride  
26 emissions, by October 1, 2025.

27 (4) For the purposes of this section, "safer alternative" means  
28 an alternative that is less hazardous to humans or the environment  
29 than sulfuryl fluoride. A safer alternative to sulfuryl fluoride may  
30 include: (a) A change in pest management practices that eliminates  
31 the need for a chemical alternative; (b) a chemical alternative whose  
32 use does not result in greenhouse gas emissions; or (c) a chemical  
33 alternative whose use results in lower greenhouse gas emissions,  
34 including through the use of a chemical alternative with a lower  
35 global warming potential than sulfuryl fluoride or a lower volume of  
36 application in order to achieve intended purposes.

37 (5) This section expires July 1, 2026.

1        NEW SECTION.    **Sec. 7.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

--- **END** ---