

HOUSE BILL REPORT

HB 2545

As Reported by House Committee On:
Ecology & Parks
General Government Appropriations

Title: An act relating to reporting of emissions of greenhouse gases.

Brief Description: Directing the department of ecology to adopt rules requiring entities to report the emissions of greenhouse gases.

Sponsors: Representatives Upthegrove, Chase, Finn, Kenney and Hunt; by request of Department of Ecology.

Brief History:

Committee Activity:

Ecology & Parks: 1/12/10, 1/15/10 [DPS];

General Government Appropriations: 2/2/10, 2/4/10 [DPS(EPAR)].

Brief Summary of Substitute Bill

- Requires the Department of Ecology to modify its greenhouse gas emissions reporting rules.
- Requires persons who emit 10,000 metric tons of carbon dioxide equivalent annually from a single facility, source, or site, or from fossil fuels sold in Washington by a single supplier, to report their greenhouse gas emissions to the Department of Ecology.
- Requires persons who are required to file tax reports of motor vehicle fuel sales, persons required to report periodic tax reports for special fuel sales, and distributors of aircraft fuel to report their annual greenhouse gas emissions to the Department of Ecology.
- Requires the Department of Ecology's rules to be consistent with the greenhouse gas reporting regulations adopted by the U.S. Environmental Protection Agency.

HOUSE COMMITTEE ON ECOLOGY & PARKS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Chase, Dickerson, Eddy, Finn, Hudgins, Kristiansen and Morris.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Shea and Taylor.

Staff: Jaclyn Ford (786-7339).

Background:

The Department of Ecology (DOE) must adopt rules requiring a person to report their greenhouse gas (GHG) emissions. Owners or operators of a fleet of on-road motor vehicles that emit at least 2,500 metric tons of direct GHG emissions annually in the state, and a source or combination of sources that emit at least 10,000 metric tons of direct GHG emissions annually in the state, must report to the DOE their total annual GHG emissions beginning in 2010 for their 2009 emissions.

The DOE rules must establish an annual reporting schedule where reports are submitted by October 31 each year. The DOE may phase in the reporting requirements until either the threshold is met or by January 1, 2012, whichever occurs first. The DOE has discretion to amend the rules to include other persons that emit less than the annual GHG emission levels required to report in order to comply with federal reporting requirements. The DOE may also include GHG emissions that result from upstream and downstream sources. With the assistance of the Washington State Department of Transportation, the DOE must identify a mechanism to report an aggregate estimate of the annual GHG emissions generated from or emitted by otherwise unreported on-road motor vehicles.

The DOE may defer the reporting requirements for emissions associated with the interstate commercial aircraft, rail, or marine vessels until either there is a federal requirement to report the emissions or the DOE finds there is a generally accepted reporting protocol for determining interstate emissions.

The Energy Facility Site Evaluation Council (EFSEC) must adopt rules that require the same GHG emissions reporting requirements in site certifications on persons operating or responsible for the operation of a facility permitted by the EFSEC.

If the federal government adopts rules governing the reporting of GHG emissions, the DOE must propose amendments to its rules to ensure administrative consistency and non-duplicative reporting.

Any fees for reporting must be determined by the DOE and deposited into the Air Pollution Control Account. If persons fail to report or fail to pay the required reporting fee, penalties may be imposed.

By December 31 of each even-numbered year beginning in 2010, the DOE and the Department of Commerce must report to the Governor and the Legislature the total GHG emissions for the preceding two years, and totals in each major source sector.

Summary of Substitute Bill:

Persons who emit 10,000 metric tons of carbon dioxide equivalent annually from a single facility, source, or site, or from fossil fuels sold in Washington by a single supplier, must report their GHG emissions to the DOE.

Greenhouse gas emissions resulting from the combustion of biomass must be reported separately from GHG emissions resulting from the combustion of fossil fuels.

Beginning in 2011, a person who is required to report GHG emissions to the U.S. Environmental Protection Agency (EPA) must submit that report and any data or corrections reported to the EPA concurrently to the DOE.

Persons who are required to file periodic tax reports of motor vehicle fuel sales, persons required to report periodic tax reports for special fuel sales, and distributors of aircraft fuel must report to the DOE the annual GHG emissions associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington. The DOE rules may allow this information to be aggregated when reported to the DOE. The DOE and the Department of Licensing (DOL) may enter into an interagency agreement to share reported information and protect proprietary information. Any proprietary information exempt from disclosure when reported to the DOL remains exempt from disclosure when shared with the DOE.

The DOE rules must be consistent with the regulations adopted by the EPA. The DOE may exempt persons from reporting who are required to report GHG emissions to the EPA and who emit less than 10,000 metric tons carbon dioxide equivalent annually.

The DOE must review and update its rules whenever the EPA adopts final amendments to their GHG reporting rule in order to ensure consistency with federal reporting requirements.

The definition of "greenhouse gas" now includes the ability for the DOE to designate by rule any other gas or gases. However, the DOE may only include additional gases to the definition of "greenhouse gas" if the gas has been designated as a GHG by the U.S. Congress or by the EPA. The DOE must notify the appropriate legislative committees if they decide to amend the definition of "greenhouse gas." In addition, the decision to amend the rule must be made prior to December 1 of any year and the rule cannot take effect before the end of a regular legislative session in the next year.

Definitions for "direct emissions," "indirect emissions," and "total emissions of greenhouse gases" are eliminated.

A "person" includes: (1) an owner or operator, as those terms are defined by the EPA in its GHG reporting regulation; (2) a motor vehicle fuel supplier or a motor vehicle fuel importer; (3) a special fuel supplier or a special fuel importer; and (4) a distributor of aircraft fuel.

Substitute Bill Compared to Original Bill:

The substitute bill:

- clarifies that the DOE may only include additional gases to the definition of "greenhouse gas" if the gas has been designated as a GHG by the U.S. Congress or by the EPA;
 - clarifies that the DOE may exempt persons from reporting who are required to report GHG emissions to the EPA and who emit less than 10,000 metric tons carbon dioxide equivalent annually;
 - requires the DOE to notify the appropriate legislative committees if they decide to amend the definition of "greenhouse gas." In addition, the decision to amend the rule must be made prior to December 1 of any year and the rule cannot take effect before the end of a regular legislative session in the next year; and
 - makes technical changes.
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Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) All the provisions in the bill are intended to streamline the reporting rule and maintain the integrity of the reporting requirements. This bill would align state requirements with the EPA rule. The state rule would change from entity to facility-wide and would also change transportation fuel emissions reporting from fleets to fuel suppliers. The due date, the biomass reporting, and the threshold limit would remain the same as what currently is in state law in order for Washington to meet its mandatory emission targets. This bill will make state reporting consistent with the mandatory EPA reporting. The emergency clause is necessary to allow for phasing-in of fleet reporting. Working with the DOL is preferred to having fleet reporting. This is a streamlined piece of legislation. This bill will clarify and align the reporting process with the EPA. The regulated community needs the provisions in this bill. There is merit in exploring exempting entities from the state filing fee. The biomass emissions should be looked at some more. The fuel distribution model is far superior to current law. The process in the bill may overstate airline fuel consumption since there is a pipeline running next to SeaTac and many airlines purchase fuel there because it is easy to access. Reporting biomass is important. The purpose of reporting is to establish an accurate baseline in the state.

(In support with concerns) The state may not need to have GHG reporting. All GHG should be codified. There should be certainty to the business community on which gases should be reported. There should be no reason for the state rule to differ from the federal rule. The state is reporting biomass differently from the federal rule. Biomass should not count toward the reporting threshold. Filing fees should not be part of the reporting program.

(Neutral) This bill streamlines the reporting rule. Landfill gas should not be lumped into fossil fuel reporting; it should be considered carbon neutral.

(Opposed) None.

Persons Testifying: (In support) Representative Upthegrove, prime sponsor; Janice Adair, Department of Ecology; Charlie Brown, Washington Oil Marketers Association; Grant Nelson, Association of Washington Business; Miguel Perez-Gibson, Climate Solutions; and Dan Coyne, Alaska Airlines.

(In support with concerns) John Stuhlmiller, Washington Farm Bureau; and Llewellyn Matthews, Northwest Pulp and Paper Association.

(Neutral) Dave Warren, Washington Public Utilities Districts Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill by Committee on Ecology & Parks be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Blake, Crouse, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Ecology & Parks:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill streamlines current requirements for greenhouse gas reporting and aligns state law with the U.S. Environmental Protection Agency definitions of greenhouse gasses. The fleet reporting requirement in current law will be very cumbersome for grocers or other businesses that maintain fleets of vehicles. We support the change in reporting requirements.

(Opposed) None.

Persons Testifying: Janice Adair, Department of Ecology; and Brad Tower, Northwest Grocery Association.

Persons Signed In To Testify But Not Testifying: None.