
SENATE BILL 5118

State of Washington**62nd Legislature****2011 Regular Session****By** Senators Rockefeller, Ranker, Fraser, and Kline

Read first time 01/14/11. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to output-based air emission standards; amending
2 RCW 70.94.030; adding a new section to chapter 70.94 RCW; and creating
3 a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that output-based air
6 emission standards encourage energy efficiency and a clean energy
7 supply. An output-based air emission standards approach increases fuel
8 conversion efficiency, reduces fuel consumption, promotes pollution
9 prevention, and reduce emissions. The legislature also finds that
10 combined heat and power is affordable, efficient, clean, and reliable.
11 Combined heat and power simultaneously generate electric energy and
12 utilize thermal energy as well, which is significantly more efficient
13 than separate generation. Thermal energy has many applications, such
14 as space heating, hot water, steam, and air conditioning.

15 The legislature intends that, where feasible and practical,
16 output-based air emission standards must be used to increase energy
17 efficiency, improve air quality, and reduce greenhouse gas emissions

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.94 RCW
2 to read as follows:

3 The department and the boards of any activated authority shall
4 consider an output-based air emission standards approach when issuing
5 technology determinations in permits, orders, and regulations. The
6 output-based air emission standards approach must include a broad range
7 of energy efficiency best available control technologies such as
8 cogeneration, waste heat recovery, and other energy efficiency measures
9 that are appropriate for the stationary source, source, or source
10 category being regulated.

11 **Sec. 3.** RCW 70.94.030 and 2005 c 197 s 2 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Air contaminant" means dust, fumes, mist, smoke, other
16 particulate matter, vapor, gas, odorous substance, or any combination
17 thereof.

18 (2) "Air pollution" is presence in the outdoor atmosphere of one or
19 more air contaminants in sufficient quantities and of such
20 characteristics and duration as is, or is likely to be, injurious to
21 human health, plant or animal life, or property, or which unreasonably
22 interfere with enjoyment of life and property. For the purpose of this
23 chapter, air pollution shall not include air contaminants emitted in
24 compliance with chapter 17.21 RCW.

25 (3) "Air quality standard" means an established concentration,
26 exposure time, and frequency of occurrence of an air contaminant or
27 multiple contaminants in the ambient air which shall not be exceeded.

28 (4) "Ambient air" means the surrounding outside air.

29 (5) "Authority" means any air pollution control agency whose
30 jurisdictional boundaries are coextensive with the boundaries of one or
31 more counties.

32 (6) "Best available control technology" (BACT) means an emission
33 limitation based on the maximum degree of reduction for each air
34 pollutant subject to regulation under this chapter emitted from or that
35 results from any new or modified stationary source, that the permitting
36 authority, on a case-by-case basis, taking into account energy,
37 environmental, and economic impacts and other costs, determines is

1 achievable for such a source or modification through application of
2 production processes and available methods, systems, and techniques,
3 including fuel cleaning, clean fuels, or treatment or innovative fuel
4 combustion techniques for control of each such a pollutant. In no
5 event shall application of "best available control technology" result
6 in emissions of any pollutants that will exceed the emissions allowed
7 by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they
8 exist on July 25, 1993, or their later enactments as adopted by
9 reference by the director by rule. Emissions from any source utilizing
10 clean fuels, or any other means, to comply with this subsection shall
11 not be allowed to increase above levels that would have been required
12 under the definition of BACT as it existed prior to enactment of the
13 federal clean air act amendments of 1990.

14 (7) "Best available retrofit technology" (BART) means an emission
15 limitation based on the degree of reduction achievable through the
16 application of the best system of continuous emission reduction for
17 each pollutant that is emitted by an existing stationary facility. The
18 emission limitation must be established, on a case-by-case basis,
19 taking into consideration the technology available, the costs of
20 compliance, the energy and nonair quality environmental impacts of
21 compliance, any pollution control equipment in use or in existence at
22 the source, the remaining useful life of the source, and the degree of
23 improvement in visibility that might reasonably be anticipated to
24 result from the use of the technology.

25 (8) "Board" means the board of directors of an authority.

26 (9) "Control officer" means the air pollution control officer of
27 any authority.

28 (10) "Department" or "ecology" means the department of ecology.

29 (11) "Emission" means a release of air contaminants into the
30 ambient air.

31 (12) "Emission standard" and "emission limitation" mean a
32 requirement established under the federal clean air act or this chapter
33 that limits the quantity, rate, or concentration of emissions of air
34 contaminants on a continuous basis, including any requirement relating
35 to the operation or maintenance of a source to assure continuous
36 emission reduction, and any design, equipment, work practice, or
37 operational standard adopted under the federal clean air act or this
38 chapter.

1 (13) "Fine particulate" means particulates with a diameter of two
2 and one-half microns and smaller.

3 (14) "Lowest achievable emission rate" (LAER) means for any source
4 that rate of emissions that reflects:

5 (a) The most stringent emission limitation that is contained in the
6 implementation plan of any state for such class or category of source,
7 unless the owner or operator of the proposed source demonstrates that
8 such limitations are not achievable; or

9 (b) The most stringent emission limitation that is achieved in
10 practice by such class or category of source, whichever is more
11 stringent.

12 In no event shall the application of this term permit a proposed
13 new or modified source to emit any pollutant in excess of the amount
14 allowable under applicable new source performance standards.

15 (15) "Modification" means any physical change in, or change in the
16 method of operation of, a stationary source that increases the amount
17 of any air contaminant emitted by such source or that results in the
18 emission of any air contaminant not previously emitted. The term
19 modification shall be construed consistent with the definition of
20 modification in Section 7411, Title 42, United States Code, and with
21 rules implementing that section.

22 (16) "Multicounty authority" means an authority which consists of
23 two or more counties.

24 (17) "New source" means (a) the construction or modification of a
25 stationary source that increases the amount of any air contaminant
26 emitted by such source or that results in the emission of any air
27 contaminant not previously emitted, and (b) any other project that
28 constitutes a new source under the federal clean air act.

29 (18) "Permit program source" means a source required to apply for
30 or to maintain an operating permit under RCW 70.94.161.

31 (19) "Person" means an individual, firm, public or private
32 corporation, association, partnership, political subdivision of the
33 state, municipality, or governmental agency.

34 (20) "Reasonably available control technology" (RACT) means the
35 lowest emission limit that a particular source or source category is
36 capable of meeting by the application of control technology that is
37 reasonably available considering technological and economic
38 feasibility. RACT is determined on a case-by-case basis for an

1 individual source or source category taking into account the impact of
2 the source upon air quality, the availability of additional controls,
3 the emission reduction to be achieved by additional controls, the
4 impact of additional controls on air quality, and the capital and
5 operating costs of the additional controls. RACT requirements for a
6 source or source category shall be adopted only after notice and
7 opportunity for comment are afforded.

8 (21) "Silvicultural burning" means burning of wood fiber on forest
9 land consistent with the provisions of RCW ((70.94.660)) 70.94.6534.

10 (22) "Source" means all of the emissions units including
11 quantifiable fugitive emissions, that are located on one or more
12 contiguous or adjacent properties, and are under the control of the
13 same person, or persons under common control, whose activities are
14 ancillary to the production of a single product or functionally related
15 group of products.

16 (23) "Stationary source" means any building, structure, facility,
17 or installation that emits or may emit any air contaminant.

18 (24) "Trigger level" means the ambient level of fine particulates,
19 measured in micrograms per cubic meter, that must be detected prior to
20 initiating a first or second stage of impaired air quality under RCW
21 70.94.473.

22 (25) "Output-based air emission standards" means emissions
23 limitations based on emissions per unit of product produced. Power
24 plants and cogeneration facilities must use the methodology established
25 under RCW 80.80.040.

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