
SENATE BILL 6083

State of Washington

65th Legislature

2018 Regular Session

By Senators Cleveland, Ranker, Kuderer, Keiser, Conway, Hunt, and Hasegawa

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1 AN ACT Relating to maintaining public health, safety, and
2 environmental standards; and adding a new chapter to Title 70 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that for over
5 four decades Washington state and its residents have relied on
6 federal laws, including the federal clean air act, the federal water
7 pollution control act, and the federal safe drinking water act,
8 together with their implementing regulations and remedies, to protect
9 the state's public health, environmental quality, and natural
10 resources. These federal laws establish standards that serve as the
11 baseline level of public health and environmental protection, while
12 expressly authorizing states like Washington to adopt more protective
13 measures.

14 (2) The legislature further finds that the current presidential
15 administration and majorities in the United States congress have
16 presented direct challenges to these federal laws and the protections
17 they provide, as well as to the underlying science that makes these
18 protections necessary, and to the rights of the states to protect
19 their own environment, natural resources, and public health as they
20 deem necessary.

1 (3) Therefore, the legislature declares that it is necessary to
2 enact legislation that will ensure continued protections for the
3 environment, natural resources, and public health in the state even
4 if the federal laws specified in subsection (1) of this section are
5 undermined, amended, or repealed.

6 (4) The legislature further declares that the purposes of this
7 chapter are to:

8 (a) Retain protections afforded under the federal laws specified
9 in subsection (1) of this section implementing those federal laws in
10 existence as of January 1, 2016, or January 1, 2017, whichever is
11 more stringent, regardless of actions taken at the federal level
12 since January 1, 2017, that weaken federal standards;

13 (b) Protect public health and welfare from any actual or
14 potential adverse effect that reasonably may be anticipated to occur
15 from pollution, including the effects of climate change;

16 (c) Preserve, protect, and enhance the environment and natural
17 resources in Washington including, but not limited to, the state's
18 national parks, national wilderness areas, national monuments,
19 national seashores, and other areas with special natural,
20 recreational, scenic, cultural, or historical value;

21 (d) Ensure that economic growth will occur in a manner consistent
22 with the protection of public health and the environment and
23 preservation of existing natural resources; and

24 (e) Ensure that any decision made by a public agency that may
25 adversely impact public health, the environment, or natural resources
26 is made only after careful evaluation of all the consequences of that
27 decision and after adequate procedural opportunities for informed
28 public participation in the decision-making process.

29 NEW SECTION. **Sec. 2.** The definitions in this section apply
30 throughout this chapter unless the context clearly requires
31 otherwise.

32 (1) "Baseline federal standards" means the authorizations,
33 policies, objectives, rules, requirements, and standards contained in
34 federal laws or federal regulations implementing the federal laws in
35 existence as of January 1, 2016, or January 1, 2017, whichever is
36 more stringent.

37 (2) "Baseline federal standards for other federal laws" means the
38 authorizations, policies, objectives, rules, requirements, and
39 standards contained in other federal laws or federal regulations

1 implementing the other federal laws in existence as of January 1,
2 2016, or January 1, 2017, whichever is more stringent.

3 (3) "Department" means the department of ecology.

4 (4) "Federal law" means any of the following:

5 (a) The federal clean air act, 42 U.S.C. Sec. 7401 et seq.;

6 (b) The federal water pollution control act, 33 U.S.C. Sec. 1251
7 et seq.; and

8 (c) The federal safe drinking water act, 42 U.S.C. Sec. 200f et
9 seq.

10 (5) "Other federal laws" means any other federal law not
11 specified in subsection (4) of this section, relating to
12 environmental protection, natural resources, or public health.

13 NEW SECTION. **Sec. 3.** (1) Except as authorized by state law, a
14 state agency or regional air pollution control authority may not
15 amend or revise its rules and regulations to be less stringent than
16 the baseline federal standards.

17 (2) Except as otherwise provided in state law, a state agency or
18 regional air pollution control authority may establish rules and
19 regulations that are more stringent than the baseline federal
20 standards.

21 (3) To the extent authorized by federal law and except as
22 otherwise authorized by state law, a state agency or regional air
23 pollution control authority that is delegated the authority to
24 implement or enforce other federal laws or that implements the state
25 law that is an analogue to the other federal laws may not amend or
26 revise its rules and regulations to be less stringent than the
27 baseline federal standards for other federal laws, but may establish
28 rules and regulations for Washington that are more stringent than the
29 baseline federal standards for other federal laws.

30 NEW SECTION. **Sec. 4.** (1) The legislature finds that the state's
31 clean air laws in chapter 70.94 RCW and its laws limiting greenhouse
32 gas emissions in chapter 70.235 RCW are the state analogue to the
33 federal clean air act, 42 U.S.C. Sec. 7401 et seq.

34 (2) To ensure no backsliding as a result of any change in the
35 federal clean air act or its implementing regulations, the department
36 and all regional air pollution control authorities shall maintain and
37 enforce all air quality requirements and standards that are at least

1 as stringent as required by the baseline federal standards, in
2 addition to those required under state law.

3 (3) To the extent that the department or a regional air pollution
4 control authority has not established a standard or requirement for
5 an air pollutant for which a standard or requirement exists in the
6 baseline federal standards, the department or regional air pollution
7 control authority shall adopt the standard or requirement to be at
8 least as stringent as the baseline federal standard.

9 (4) The department and regional air pollution control authorities
10 shall adopt elements of air quality state implementation plans that
11 meet requirements that are at least as stringent as those required by
12 the applicable baseline federal standards, in addition to those
13 required by state law.

14 (5) If the federal transportation conformity program becomes less
15 stringent than the applicable baseline federal standards, the
16 department and regional air pollution control authorities shall adopt
17 and implement equivalent requirements that are at least as stringent
18 as those required by the applicable baseline federal standards, in
19 addition to those required by state law.

20 (6) If the United States environmental protection agency no
21 longer implements the prevention of significant deterioration program
22 in accordance with the applicable baseline federal standards, then,
23 where a regional air pollution control authority has not received
24 authority to issue prevention of deterioration permits, the
25 department shall immediately establish a state prevention of
26 significant deterioration program to issue permits that are at least
27 as stringent as the applicable baseline federal standards.

28 NEW SECTION. **Sec. 5.** (1) The legislature finds that chapter
29 90.48 RCW, water pollution control, chapter 90.56 RCW, oil and
30 hazardous substance spill prevention and response, and chapter 88.46
31 RCW, vessel oil spill prevention and response are the state analogue
32 to the federal water pollution control act, 33 U.S.C. Sec. 1251 et
33 seq., also known as the federal clean water act.

34 (2) To ensure no backsliding as a result of any change in the
35 federal clean water act, the department shall maintain and enforce
36 all water quality standards that are at least as stringent as
37 required by the applicable baseline federal standards, in addition to
38 those required by state law.

1 (3) To the extent the department has not established a water
2 quality standards or requirements for which a standard or requirement
3 exists in the baseline federal standards, the department shall adopt
4 the standard or requirement to be at least as stringent as the
5 baseline federal standards.

6 (4) Waste disposal requirements and permits that are issued on or
7 after January 1, 2018, must be at least as protective of the
8 environment and comply with all applicable water quality standards,
9 effluent limitations, and restrictions as required by the applicable
10 federal baseline standards, in addition to those required by state
11 law.

12 (5) A water quality clean-up plan adopted on or after January 1,
13 2018, must be at least as protective of the environment pursuant to,
14 and in compliance with, all applicable water quality standards,
15 effluent limitations, and restrictions as required by the applicable
16 baseline federal standards, in addition to those required by state
17 law.

18 (6) When a waste discharge requirement or water quality clean-up
19 plan is renewed or amended, any water quality standards, effluent
20 limitations, restrictions, and conditions must be at least as
21 protective of the environment pursuant to, and in compliance with,
22 all applicable water quality standards, effluent limitations, and
23 restrictions as required by the applicable baseline federal
24 standards, in addition to those required by state law.

25 NEW SECTION. **Sec. 6.** (1) The legislature finds that the state's
26 drinking water quality control laws in chapter 70.119A RCW and RCW
27 43.20.050 are the state analogue to the federal safe drinking water
28 act, 42 U.S.C. Sec. 300f et seq.

29 (2) To ensure no backsliding as a result of any change in the
30 federal safe drinking water act, the state board of health shall
31 maintain and enforce all drinking water standards that are at least
32 as stringent as required by the applicable baseline federal
33 standards, in addition to those required by state law.

34 (3) To the extent that the state board of health has not
35 established a drinking water standard or requirement for which a
36 standard or requirement exists in the baseline federal standards, the
37 board shall adopt the standard or requirement to be at least as
38 stringent as the baseline federal standards.

1 (4) Drinking water system operating permits that are issued on or
2 after January 1, 2018, must be at least as protective of public
3 health and comply with all applicable drinking water standards, as
4 required by the applicable baseline federal standards, in addition to
5 those required by state law.

6 NEW SECTION. **Sec. 7.** (1) The department, each regional air
7 pollution control authority, the board of health, and the attorney
8 general shall undertake all feasible efforts using authority under
9 state and federal law to implement and enforce sections 1 through 6
10 of this act.

11 (2) The department shall provide a report to the appropriate
12 committees of the senate and house of representatives by December 1,
13 2018, and annually thereafter, that summarizes state and local
14 actions to implement sections 1 through 6 of this act and that
15 describes actions taken by the federal government that would weaken
16 baseline federal standards that are applicable within the state of
17 Washington.

18 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act
19 constitute a new chapter in Title 70 RCW.

20 NEW SECTION. **Sec. 9.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

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