
SENATE BILL 6628

State of Washington

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By Senators Carlyle, Lias, Kuderer, Hunt, Stanford, Salomon, and Wellman; by request of Office of the Governor

Read first time 01/28/20. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to emissions of greenhouse gases; and amending
2 RCW 70.94.030 and 70.94.331.

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

4 **Sec. 1.** RCW 70.94.030 and 2005 c 197 s 2 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

11 (2) "Air pollution" is presence in the outdoor atmosphere of one
12 or more air contaminants in sufficient quantities and of such
13 characteristics and duration as is, or is likely to be, injurious to
14 human health, plant or animal life, or property, or which
15 unreasonably interfere with enjoyment of life and property. For the
16 purpose of this chapter, air pollution shall not include air
17 contaminants emitted in compliance with chapter 17.21 RCW.

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

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

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

4 (6) "Best available control technology" (BACT) means an emission
5 limitation based on the maximum degree of reduction for each air
6 pollutant subject to regulation under this chapter emitted from or
7 that results from any new or modified stationary source, that the
8 permitting authority, on a case-by-case basis, taking into account
9 energy, environmental, and economic impacts and other costs,
10 determines is achievable for such a source or modification through
11 application of production processes and available methods, systems,
12 and techniques, including fuel cleaning, clean fuels, or treatment or
13 innovative fuel combustion techniques for control of each such a
14 pollutant. In no event shall application of "best available control
15 technology" result in emissions of any pollutants that will exceed
16 the emissions allowed by any applicable standard under 40 C.F.R. Part
17 60 and Part 61, as they exist on July 25, 1993, or their later
18 enactments as adopted by reference by the director by rule. Emissions
19 from any source utilizing clean fuels, or any other means, to comply
20 with this subsection shall not be allowed to increase above levels
21 that would have been required under the definition of BACT as it
22 existed prior to enactment of the federal clean air act amendments of
23 1990.

24 (7) "Best available retrofit technology" (BART) means an emission
25 limitation based on the degree of reduction achievable through the
26 application of the best system of continuous emission reduction for
27 each pollutant that is emitted by an existing stationary facility.
28 The emission limitation must be established, on a case-by-case basis,
29 taking into consideration the technology available, the costs of
30 compliance, the energy and nonair quality environmental impacts of
31 compliance, any pollution control equipment in use or in existence at
32 the source, the remaining useful life of the source, and the degree
33 of improvement in visibility that might reasonably be anticipated to
34 result from the use of the technology.

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

36 (9) "Control officer" means the air pollution control officer of
37 any authority.

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

39 (11) "Emission" means a direct or indirect release of air
40 contaminants into the ambient air.

1 (12) "Emission standard" and "emission limitation" mean a
2 requirement established under the federal clean air act or this
3 chapter that limits the quantity, rate, or concentration of direct or
4 indirect emissions of air contaminants on a continuous basis,
5 including any requirement relating to the operation or maintenance of
6 a source to assure continuous emission reduction, and any design,
7 equipment, work practice, or operational standard adopted under the
8 federal clean air act or this chapter.

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

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

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

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

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

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

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

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

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

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

4 (20) "Reasonably available control technology" (RACT) means the
5 lowest emission limit that a particular source or source category is
6 capable of meeting by the application of control technology that is
7 reasonably available considering technological and economic
8 feasibility. RACT is determined on a case-by-case basis for an
9 individual source or source category taking into account the impact
10 of the source upon air quality, the availability of additional
11 controls, the emission reduction to be achieved by additional
12 controls, the impact of additional controls on air quality, and the
13 capital and operating costs of the additional controls. RACT
14 requirements for a source or source category shall be adopted only
15 after notice and opportunity for comment are afforded.

16 (21) "Silvicultural burning" means burning of wood fiber on
17 forestland consistent with the provisions of RCW (~~70.94.660~~)
18 70.94.6534.

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

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

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

31 **Sec. 2.** RCW 70.94.331 and 1991 c 199 s 710 are each amended to
32 read as follows:

33 (1) The department shall have all the powers as provided in RCW
34 70.94.141.

35 (2) The department, in addition to any other powers vested in it
36 by law after consideration at a public hearing held in accordance
37 with chapters 42.30 and 34.05 RCW shall:

38 (a) Adopt rules establishing air quality objectives and air
39 quality standards;

1 (b) Adopt emission standards which shall constitute minimum
2 emission standards throughout the state. An authority may enact more
3 stringent emission standards, except for emission performance
4 standards for new woodstoves and opacity levels for residential solid
5 fuel burning devices which shall be statewide, but in no event may
6 less stringent standards be enacted by an authority without the prior
7 approval of the department after public hearing and due notice to
8 interested parties;

9 (c) Adopt by rule air quality standards and emission standards
10 for the control or prohibition of emissions to the outdoor atmosphere
11 of radionuclides, dust, fumes, mist, smoke, other particulate matter,
12 vapor, gas, odorous substances, or any combination thereof. Such
13 requirements may be based upon a system of classification by types of
14 emissions or types of sources of emissions, or combinations thereof,
15 which it determines most feasible for the purposes of this chapter.
16 The department may require persons who produce or distribute fossil
17 fuels or other products that emit greenhouse gases in Washington to
18 comply with air quality standards, emission standards, or emission
19 limits on emissions of greenhouse gases. However, an industry, or the
20 air pollution control authority having jurisdiction, can choose,
21 subject to the submittal of appropriate data that the industry has
22 quantified, to have any limit on the opacity of emissions from a
23 source whose emission standard is stated in terms of a weight of
24 particulate per unit volume of air (e.g., grains per dry standard
25 cubic foot) be based on the applicable particulate emission standard
26 for that source, such that any violation of the opacity limit
27 accurately indicates a violation of the applicable particulate
28 emission standard. Any alternative opacity limit provided by this
29 section that would result in increasing air contaminants emissions in
30 any nonattainment area shall only be granted if equal or greater
31 emission reductions are provided for by the same source obtaining the
32 revised opacity limit. A reasonable fee may be assessed to the
33 industry to which the alternate opacity standard would apply. The fee
34 shall cover only those costs to the air pollution control authority
35 which are directly related to the determination on the acceptability
36 of the alternate opacity standard, including testing, oversight and
37 review of data.

38 (3) The air quality standards and emission standards may be for
39 the state as a whole or may vary from area to area or source to
40 source, except that emission performance standards for new woodstoves

1 and opacity levels for residential solid fuel burning devices shall
2 be statewide, as may be appropriate to facilitate the accomplishment
3 of the objectives of this chapter and to take necessary or desirable
4 account of varying local conditions of population concentration, the
5 existence of actual or reasonably foreseeable air pollution,
6 topographic and meteorologic conditions and other pertinent
7 variables.

8 (4) The department is directed to cooperate with the appropriate
9 agencies of the United States or other states or any interstate
10 agencies or international agencies with respect to the control of air
11 pollution and air contamination, or for the formulation for the
12 submission to the legislature of interstate air pollution control
13 compacts or agreements.

14 (5) The department is directed to conduct or cause to be
15 conducted a continuous surveillance program to monitor the quality of
16 the ambient atmosphere as to concentrations and movements of air
17 contaminants and conduct or cause to be conducted a program to
18 determine the quantity of emissions to the atmosphere.

19 (6) The department shall enforce the air quality standards and
20 emission standards throughout the state except where a local
21 authority is enforcing the state regulations or its own regulations
22 which are more stringent than those of the state.

23 (7) The department shall encourage local units of government to
24 handle air pollution problems within their respective jurisdictions;
25 and, on a cooperative basis provide technical and consultative
26 assistance therefor.

27 (8) The department shall have the power to require the addition
28 to or deletion of a county or counties from an existing authority in
29 order to carry out the purposes of this chapter. No such addition or
30 deletion shall be made without the concurrence of any existing
31 authority involved. Such action shall only be taken after a public
32 hearing held pursuant to the provisions of chapter 34.05 RCW.

33 (9) The department shall establish rules requiring sources or
34 source categories to apply reasonable and available control methods.
35 Such rules shall apply to those sources or source categories that
36 individually or collectively contribute the majority of statewide air
37 emissions of each regulated pollutant. The department shall review,
38 and if necessary, update its rules every five years to ensure
39 consistency with current reasonable and available control methods.

1 The department shall have adopted rules required under this
2 subsection for all sources by July 1, 1996.

3 For the purposes of this section, "reasonable and available
4 control methods" shall include but not be limited to, changes in
5 technology, processes, or other control strategies.

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