

SSB 5343 - H AMD TO ENVI COMM AMD (H-2362.1/11) 556
By Representative Morris

NOT CONSIDERED 04/22/2011

1 On page 1, at the beginning of line 3 of the amendment, strike all
2 material through "2012." on line 26 and insert the following:

3 "Sec. 1. RCW 70.94.152 and 1996 c 67 s 1 and 1996 c 29 s 1 are
4 each reenacted and amended to read as follows:

5 (1)(a) The department (~~of ecology~~) or board of any authority may
6 require notice of the establishment of any proposed new sources,
7 except:

8 (i) Single-family and duplex dwellings (~~or~~);

9 (ii) De minimis new sources as defined in rules adopted under
10 subsection (11) of this section; and

11 (iii) New sources that are exempt under subsection (13) of this
12 section.

13 (b) The department (~~of ecology~~) or board may require such notice
14 to be accompanied by a fee, and determine the amount of (~~such~~) the
15 fee(~~:- PROVIDED, That the amount of~~). The fee may not exceed the
16 cost of reviewing the plans, specifications, and other information and
17 administering (~~such~~) the notice(~~:- PROVIDED FURTHER, That~~). Any
18 such notice given or notice of construction application submitted to
19 either the board or to the department (~~of ecology~~) shall preclude
20 ((a)) further submittal of a duplicate application to any board or to
21 the department (~~of ecology~~).

22 (2) The department shall, after opportunity for public review and
23 comment, adopt rules that establish a workload-driven process for
24 determination and review of the fee covering the direct and indirect
25 costs of processing a notice of construction application and a
26 methodology for tracking revenues and expenditures. All new source
27 fees collected by (~~the delegated local air~~) authorities from sources
28 shall be deposited in the dedicated accounts of their respective
29 treasuries. All new source fees collected by the department from
30 sources shall be deposited in the air pollution control account.

1 (3) Within thirty days of receipt of a notice of construction
2 application, the department ((~~of ecology~~)) or board may require, as a
3 condition precedent to the establishment of the new source or sources
4 covered thereby, the submission of plans, specifications, and such
5 other information as it deems necessary to determine whether the
6 proposed new source will be in accord with applicable rules and
7 regulations in force under this chapter. If, on the basis of plans,
8 specifications, or other information required under this section, the
9 department ((~~of ecology~~)) or board determines that the proposed new
10 source will not be in accord with this chapter or the applicable
11 ordinances, resolutions, rules, and regulations adopted under this
12 chapter, it shall issue an order denying permission to establish the
13 new source. If, on the basis of plans, specifications, or other
14 information required under this section, the department ((~~of ecology~~))
15 or board determines that the proposed new source will be in accord with
16 this chapter, and the applicable rules and regulations adopted under
17 this chapter, it shall issue an order of approval for the establishment
18 of the new source or sources, which order may provide such conditions
19 as are reasonably necessary to assure the maintenance of compliance
20 with this chapter and the applicable rules and regulations adopted
21 under this chapter. Every order of approval under this chapter must be
22 reviewed prior to issuance by a professional engineer or staff under
23 the supervision of a professional engineer in the employ of the
24 department ((~~of ecology~~)) or board.

25 (4) The determination required under subsection (3) of this section
26 shall include a determination of whether the operation of the new air
27 contaminant source at the location proposed will cause any ambient air
28 quality standard to be exceeded.

29 (5) New source review of a modification shall be limited to the
30 emission unit or units proposed to be modified and the air contaminants
31 whose emissions would increase as a result of the modification.

32 (6) Nothing in this section shall be construed to authorize the
33 department ((~~of ecology~~)) or board to require the use of emission
34 control equipment or other equipment, machinery, or devices of any
35 particular type, from any particular supplier, or produced by any
36 particular manufacturer.

37 (7) Any features, machines, and devices constituting parts of or

1 called for by plans, specifications, or other information submitted
2 pursuant to subsection (1) or (3) of this section shall be maintained
3 and operate in good working order.

4 (8) The absence of an ordinance, resolution, rule, or regulation,
5 or the failure to issue an order pursuant to this section shall not
6 relieve any person from his or her obligation to comply with applicable
7 emission control requirements or with any other provision of law.

8 (9) Within thirty days of receipt of a notice of construction
9 application the department (~~of ecology~~) or board shall either notify
10 the applicant in writing that the application is complete or notify the
11 applicant in writing of all additional information necessary to
12 complete the application. Within sixty days of receipt of a complete
13 application the department or board shall either (a) issue a final
14 decision on the application, or (b) for those projects subject to
15 public notice, initiate notice and comment on a proposed decision,
16 followed as promptly as possible by a final decision. A person seeking
17 approval to construct or modify a source that requires an operating
18 permit may elect to integrate review of the operating permit
19 application or amendment required by RCW 70.94.161 and the notice of
20 construction application required by this section. A notice of
21 construction application designated for integrated review shall be
22 processed in accordance with operating permit program procedures and
23 deadlines.

24 (10) A notice of construction approval required under subsection
25 (3) of this section shall include a determination that the new source
26 will achieve best available control technology. If more stringent
27 controls are required under federal law, the notice of construction
28 shall include a determination that the new source will achieve the more
29 stringent federal requirements. Nothing in this subsection is intended
30 to diminish other state authorities under this chapter.

31 (11) No person is required to submit a notice of construction or
32 receive approval for a new source that is deemed by the department (~~of~~
33 ~~ecology~~) or board to have de minimis impact on air quality. The
34 department (~~of ecology~~) shall adopt and periodically update rules
35 identifying categories of de minimis new sources. The department (~~of~~
36 ~~ecology~~) may identify de minimis new sources by category, size, or
37 emission thresholds.

1 (12) For purposes of this section, "de minimis new sources" means
2 new sources with trivial levels of emissions that do not pose a threat
3 to human health or the environment.

4 (13)(a) One or more generators operating at an electric generating
5 project are exempt from the requirements of this section if:

6 (i) The generators are fueled solely by biogas that:

7 (A) Is produced by an anaerobic digester that qualifies for the
8 solid waste permitting exemption specified in RCW 70.95.330; and

9 (B) Contains less than 0.1 percent sulfur after a startup period
10 not exceeding one hundred eighty days;

11 (ii) The aggregate heat input from the generators does not exceed
12 ten million British thermal units per hour; and

13 (iii) The exemption is permissible under federal law.

14 (b) A modified generator may retain an exemption under this
15 subsection if the generator continues to meet the requirements
16 specified in (a) of this subsection.

17 (c) For the purposes of this subsection: (i) "Anaerobic digester"
18 means a vessel that processes organic material into biogas and
19 digestate using microorganisms in a decomposition process within a
20 closed, oxygen-free container; and (ii) "generator" means an internal
21 combustion engine that converts biogas into electricity, and includes
22 any backup combustion device to burn biogas when an engine is idled for
23 maintenance.

24 (d) For generators exempted under this subsection or permitted
25 under this section, the department shall measure emission outputs using
26 SCREEN3 air modeling software approved by the United States
27 environmental protection agency or another air modeling software that
28 is no more stringent than SCREEN3 that is approved by the United States
29 environmental protection agency.

30 (e) This subsection is void and has no force or effect when the
31 department adopts rules consistent with the final rules promulgated by
32 the United States environmental protection agency concerning new
33 thresholds for greenhouse gas emissions that define when permits under
34 the new source review and Title V operating permits program under the
35 federal clean air act would be required for new or existing industrial
36 facilities."

EFFECT: Removes the rule-making requirements in the underlying

bill. Exempts certain qualifying generators from the notice of construction permitting requirements under the state clean air act. Requires the department of ecology (DOE) to measure emission outputs of exempt and permitted generators using SCREEN3 air modeling software. Provides that the exemption is void and has no force or effect when the DOE adopts rules consistent with the United States environmental protection agency's final rules concerning new thresholds for greenhouse gas emissions under the federal clean air act.

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