

HOUSE BILL REPORT

HB 1220

As Reported By House Committee On:
Agriculture & Ecology

Title: An act relating to an exemption from the state environmental policy act for the issuance of air operating permits.

Brief Description: Providing a SEPA exemption for air operating permits.

Sponsors: Representatives Chandler, Mastin, Horn, Johnson, Kremen, Boldt, Sheahan and Huff.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/30/95, 2/6/95 [DPS].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Clements; Delvin; R. Fisher; Honeyford; Johnson; Kremen; Poulsen; Regala; Robertson; Rust and Schoesler.

Staff: Bill Lynch (786-7092).

Background:

1. SEPA Requirement for an Environmental Impact Statement (EIS) on Major Actions Significantly Affecting the Environment

The State Environmental Protection Act (SEPA) requires all branches of state government, state agencies, municipal and public corporations, and counties to include a detailed statement (environmental impact statement or EIS) in every report or recommendation for major actions that significantly affect the quality of the environment.

The EIS must include: (1) an environmental impact of the proposed action; (2) any adverse environmental effects that cannot be avoided if the proposal is implemented; (3) alternatives to the proposed action; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term

productivity; and (5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. The subjects that must be discussed in the EIS do not have to be discussed as separate sections. The EIS must accompany the proposal throughout the agency review process.

2. Operating Permits for Air Contaminant Sources

The Department of Ecology or the board of a local air pollution control authority must require renewable permits for the operation of air contaminant sources, subject to certain conditions. The permits are issued for a term of five years. Every proposed permit must be reviewed by a professional engineer or a staff person under the direct supervision of a professional engineer.

Operating permits apply to all sources of air contaminants where required by the Federal Clean Air Act and for any source that may cause or contribute to air pollution in such quantity as to create a threat to the public health or welfare. The threat to public health or welfare conditions do not apply to small businesses unless the source is in an area exceeding or threatening to exceed federal or state air quality standards, and the department provides a reasonable justification that the permit is necessary.

Each air operating permit must state the origin of and specific legal authority for each requirement included. Every requirement in an operating permit must be based upon the most stringent of the following requirements: (1) the Federal Clean Air Act and the rules implementing the act, including provision of the approved state implementation plan; (2) the Washington Clean Air Act; (3) in permits issued by a local air pollution control authority, the requirements of any order or regulation adopted by that authority; (4) state nuclear radiation control statutes and regulations; and (5) state energy facility site evaluation council statutes and regulations.

It has been suggested that the information required to be submitted for an EIS duplicates the information that must be submitted for the issuance of an air operating permit.

Summary of Substitute Bill: A decision pertaining to the issuance, renewal, reopening, or revision of an air operating permit is not subject to the requirements under the State Environmental Protection Act (SEPA) for the preparation of an environmental impact statement (EIS).

Substitute Bill Compared to Original Bill: Language is deleted that would exempt rules pertaining to air operating permits from SEPA review.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This will save businesses time and money. All air emissions from the facility are already disclosed in the air operating permit. The air operating permit process has open public participation. Nothing is gained by going through a SEPA checklist. New facilities or modifications to a facility would still be subject to SEPA review.

Testimony Against: None.

Testified: Don Chance, Association of Washington Businesses (pro); Matt Cohen, Heller Ehrman (pro); Ken Johnson, Weyerhaeuser Co. (pro); Dan Riley, U.S. Oil and Refining Co./WSPA (pro); Dennis McLerran, Puget Sound Air Pollution Control Agency (pro); and Stu Clark, Department of Ecology (pro).