

SENATE BILL REPORT

SB 6466

As Reported By Senate Committee On:
Ecology & Parks, January 26, 1996

Title: An act relating to review of minor new sources of air pollution.

Brief Description: Allowing construction that has a minor impact on air quality to proceed without a notice of construction or review approval from the department of ecology.

Sponsors: Senators Spanel, Swecker, Sutherland, Morton, Bauer, A. Anderson and Fraser.

Brief History:

Committee Activity: Ecology & Parks: 1/18/96, 1/26/96 [DPS].

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 6466 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Fairley, Vice Chair; Hochstatter, McAuliffe, Spanel and Swecker.

Staff: Susan Ridgley (786-7444)

Background: A "new source" is any construction or modification at a facility that increases the amount of air pollution being emitted or results in a new contaminant being emitted. The Washington Clean Air Act requires that new sources submit a prior notice of construction to the Department of Ecology or the appropriate local air authority for review. They then determines whether the construction/modification will meet state regulatory requirements including the "best available control technology" (BACT), which is a regulated emission standard which specifies the type of technology to be used. The existing statute provides an exemption for residences.

Summary of Substitute Bill: A new exemption from the notice of construction and review requirements is created for "de minimis" new sources. "De minimis" is defined as a trivial level of emission that does not affect human health or the environment. Ecology must define by rule what new sources are considered de minimis, but has discretion to define them either by category, size or emission threshold.

It is clarified that BACT requirements do not apply to exempt sources, such as de minimis sources, only to regulated ones. If the federal law changes and becomes more stringent than BACT, the notice of construction must show compliance with this new, more stringent standard. Also, the state's authority to develop more stringent standards is not impeded.

Substitute Bill Compared to Original Bill: The original bill implied that modifications were different than new sources, rather than being a type of new source. The original bill used several terms for "de minimis" (for example, "insignificant") and did not define any

of them. The original bill contained complex phrasing which was unclear about how much discretion Ecology had in defining by rule the types of de minimis new sources.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This legitimizes an exemption process that Ecology and local air authorities have been doing on an ad hoc basis for a while. Regulating very small sources results in lots of paperwork and effort for both industry and the agency, without any real environmental benefit.

Testimony Against: De minimis needs to be defined; this could be a big loophole. Environmental groups and agencies are concerned about who has the burden to show that something is de minimis; this only saves Ecology time and effort if they don't have the burden. Because the exemption takes these sources completely out of the reporting system, lose the chance to see if an alternative way of doing things might prevent pollution.

Testified: Joe Williams, Department of Ecology (pro); Llewellyn Matthews, NW Pulp and Paper Assn. (pro); John Jiboney, Shell Oil (pro); Bernard P. Leber, Jr., Kaiser Aluminum (pro); Bruce Wishart, Sierra Club (con).