
SUBSTITUTE SENATE BILL 6466

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Spanel, Swecker, Sutherland, Morton, Bauer, A. Anderson and Fraser)

Read first time 01/31/96.

1 AN ACT Relating to review of minor new sources of air pollution;
2 and amending RCW 70.94.152.

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

4 **Sec. 1.** RCW 70.94.152 and 1993 c 252 s 4 are each amended to read
5 as follows:

6 (1) The department of ecology or board of any authority may require
7 notice of the establishment of any proposed new sources except single
8 family and duplex dwellings or de minimis new sources as defined in
9 rules adopted under subsection (11) of this section. The department of
10 ecology or board may require such notice to be accompanied by a fee and
11 determine the amount of such fee: PROVIDED, That the amount of the fee
12 may not exceed the cost of reviewing the plans, specifications, and
13 other information and administering such notice: PROVIDED FURTHER,
14 That any such notice given or notice of construction application
15 submitted to either the board or to the department of ecology shall
16 preclude a further submittal of a duplicate application to any board or
17 to the department of ecology.

18 (2) The department shall, after opportunity for public review and
19 comment, adopt rules that establish a workload-driven process for

1 determination and review of the fee covering the direct and indirect
2 costs of processing a notice of construction application and a
3 methodology for tracking revenues and expenditures. All new source
4 fees collected by the department from permit program sources shall be
5 deposited in the air operating permit account. All new source fees
6 collected by the delegated local air authorities from permit program
7 sources shall be deposited in the dedicated accounts of their
8 respective treasuries. All new source fees collected by the department
9 from nonpermit program sources shall be deposited in the air pollution
10 control account. All new source fees collected by local air
11 authorities from nonpermit program sources shall be deposited in their
12 respective treasuries.

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

37 (4) The determination required under subsection (3) of this section
38 shall include a determination of whether the operation of the new air

1 contaminant source at the location proposed will cause any ambient air
2 quality standard to be exceeded.

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

6 (6) Nothing in this section shall be construed to authorize the
7 department of ecology or board to require the use of emission control
8 equipment or other equipment, machinery, or devices of any particular
9 type, from any particular supplier, or produced by any particular
10 manufacturer.

11 (7) Any features, machines, and devices constituting parts of or
12 called for by plans, specifications, or other information submitted
13 pursuant to subsection (1) or (3) of this section shall be maintained
14 and operate in good working order.

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

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

35 (10) (~~Best available control technology (BACT) is required for new~~
36 ~~sources except where the federal clean air act requires compliance with~~
37 ~~the lowest achievable emission rate (LAER).)~~ A notice of construction
38 approval required under subsection (3) of this section shall include a
39 determination that the new source will achieve best available control

1 technology. If more stringent controls are required under federal law,
2 the notice of construction shall include a determination that the new
3 source will achieve the more stringent federal requirements. Nothing
4 in this subsection is intended to diminish other state authorities
5 under this chapter.

6 (11) No person is required to submit a notice of construction or
7 receive approval for a new source that is deemed by the department of
8 ecology or board to have de minimis impact on air quality. The
9 department of ecology shall adopt and periodically update rules
10 identifying categories of de minimis new sources. The department of
11 ecology may identify de minimus new sources by category, size, or
12 emission thresholds.

13 (12) For purposes of this section, "de minimus new sources" means
14 new sources with trivial levels of emissions that do not pose a threat
15 to human health or the environment.

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