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SENATE BILL 6467

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State of Washington

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By Senators Spanel, Swecker, Sutherland, Morton, Bauer, A. Anderson, Fraser, Roach and Haugen

Read first time 01/15/96. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to pollution source fees; and amending RCW  
2 70.94.152 and 70.94.154.

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. The department of ecology or board may  
9 require such notice to be accompanied by a fee and determine the amount  
10 of such fee: PROVIDED, That the amount of the fee may not exceed the  
11 cost of reviewing the plans, specifications, and other information and  
12 administering such notice: PROVIDED FURTHER, That any such notice  
13 given or notice of construction application submitted to either the  
14 board or to the department of ecology shall preclude a further  
15 submittal of a duplicate application to any board or to the department  
16 of ecology.

17 (2) The department shall, after opportunity for public review and  
18 comment, adopt rules that establish a workload-driven process for  
19 determination and review of the fee covering the direct and indirect

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

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

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

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

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

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

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

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

33 (10) Best available control technology (BACT) is required for new  
34 sources except where the federal clean air act requires compliance with  
35 the lowest achievable emission rate (LAER).

36 **Sec. 2.** RCW 70.94.154 and 1993 c 252 s 8 are each amended to read  
37 as follows:

1 (1) RACT as defined in RCW 70.94.030 is required for existing  
2 sources except as otherwise provided in RCW 70.94.331(9).

3 (2) RACT for each source category containing three or more sources  
4 shall be determined by rule except as provided in subsection (3) of  
5 this section.

6 (3) Source-specific RACT determinations may be performed under any  
7 of the following circumstances:

8 (a) As authorized by RCW 70.94.153;

9 (b) When required by the federal clean air act;

10 (c) For sources in source categories containing fewer than three  
11 sources;

12 (d) When an air quality problem, for which the source is a  
13 contributor, justifies a source-specific RACT determination prior to  
14 development of a categorical RACT rule; or

15 (e) When a source-specific RACT determination is needed to address  
16 either specific air quality problems for which the source is a  
17 significant contributor or source-specific economic concerns.

18 (4) By January 1, 1994, ecology shall develop a list of sources and  
19 source categories requiring RACT review and a schedule for conducting  
20 that review. Ecology shall review the list and schedule within six  
21 months of receiving the initial operating permit applications and at  
22 least once every five years thereafter. In developing the list to  
23 determine the schedule of RACT review, ecology shall consider emission  
24 reductions achievable through the use of new available technologies and  
25 the impacts of those incremental reductions on air quality, the  
26 remaining useful life of previously installed control equipment, the  
27 impact of the source or source category on air quality, the number of  
28 years since the last BACT, RACT, or LAER determination for that source  
29 and other relevant factors. Prior to finalizing the list and schedule,  
30 ecology shall consult with local air authorities, the regulated  
31 community, environmental groups, and other interested individuals and  
32 organizations. The department and local authorities shall revise RACT  
33 requirements, as needed, based on the review conducted under this  
34 subsection.

35 (5) In determining RACT, ecology and local authorities shall  
36 utilize the factors set forth in RCW 70.94.030 and shall consider RACT  
37 determinations and guidance made by the federal environmental  
38 protection agency, other states and local authorities for similar  
39 sources, and other relevant factors. In establishing or revising RACT

1 requirements, ecology and local authorities shall address, where  
2 practicable, all air contaminants deemed to be of concern for that  
3 source or source category.

4 (6) Emission standards and other requirements contained in rules or  
5 regulatory orders in effect at the time of operating permit issuance or  
6 renewal shall be considered RACT for purposes of permit issuance or  
7 renewal. RACT determinations under subsections (2) and (3) of this  
8 section shall be incorporated into operating permits as provided in RCW  
9 70.94.161 and rules implementing that section.

10 (7) The department and local air authorities are authorized to  
11 assess and collect a fee to cover the costs of developing,  
12 establishing, or reviewing categorical or case-by-case RACT  
13 requirements. The fee shall apply to determinations of RACT  
14 requirements as defined under this section and RCW 70.94.331(9). The  
15 amount of the fee may not exceed the direct and indirect costs of  
16 establishing the requirement for the particular source or the pro rata  
17 portion of the direct and indirect costs of establishing the  
18 requirement for the relevant source category. The department shall,  
19 after opportunity for public review and comment, adopt rules that  
20 establish a workload-driven process for determination and review of the  
21 fee covering the direct and indirect costs of its RACT determinations  
22 and a methodology for tracking revenues and expenditures. ~~((All such  
23 RACT determination fees collected by the department from permit program  
24 sources shall be deposited in the air operating permit account.))~~ All  
25 such RACT determination fees collected by the delegated local air  
26 authorities from ~~((permit program))~~ sources shall be deposited in the  
27 dedicated accounts of their respective treasuries. All such RACT fees  
28 collected by the department from ~~((nonpermit program))~~ sources shall be  
29 deposited in the air pollution control account. ~~((All such RACT fees  
30 collected by local air authorities from nonpermit program sources shall  
31 be deposited in their respective treasuries.))~~

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