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SENATE BILL 6466

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State of Washington

54th Legislature

1996 Regular Session

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

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

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 and de minimis modifications or new sources  
9 as defined in rules adopted under subsection (11) of this section. The  
10 department of ecology or board may require such notice to be  
11 accompanied by a fee and determine the amount of such fee: PROVIDED,  
12 That the amount of the fee may not exceed the cost of reviewing the  
13 plans, specifications, and other information and administering such  
14 notice: PROVIDED FURTHER, That any such notice given or notice of  
15 construction application submitted to either the board or to the  
16 department of ecology shall preclude a further submittal of a duplicate  
17 application to any board or 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 must include a  
39 determination that the new source will achieve best available control

1 technology, unless more stringent controls are required under federal  
2 law.

3 (11) No person is required to submit a notice of construction or  
4 receive approval for a new source that is deemed by the department of  
5 ecology or board to have an insignificant or de minimis impact on air  
6 quality. The department of ecology is directed to adopt and  
7 periodically update rules identifying categories of de minimis or  
8 insignificant new sources. The department of ecology may exempt  
9 categories of emissions units that have trivial or insignificant  
10 impacts on air quality from the requirements of this section. In  
11 addition, the department of ecology may exempt by rule construction and  
12 modification of emissions units that fall below defined size and  
13 emissions thresholds.

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