

# HOUSE BILL REPORT

## ESHB 1089

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As Passed Legislature

**Title:** An act relating to fee structures of the air quality stationary source permit programs.

**Brief Description:** Changing air quality operating permit requirements.

**Sponsors:** By House Committee on Environmental Affairs (originally sponsored by Representatives J. Kohl, Horn, Rust and Pruitt; by request of Department of Ecology).

**Brief History:**

Reported by House Committee on:  
Environmental Affairs, February 22, 1993, DPS;  
Revenue, March 5, 1993, DPS(ENA-A REV);  
Passed House, March 13, 1993, 84-13;  
Amended by Senate;  
Passed Legislature, April 19, 1993, 85-11.

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### HOUSE COMMITTEE ON ENVIRONMENTAL AFFAIRS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Rust, Chair; Flemming, Vice Chair; Horn, Ranking Minority Member; Bray; Foreman; Holm; L. Johnson; J. Kohl; and Linville.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Van Luven, Assistant Ranking Minority Member; Edmondson; Hansen; and Sheahan.

**Staff:** Rick Anderson (786-7114).

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### HOUSE COMMITTEE ON REVENUE

**Majority Report:** The substitute bill by Committee on Environmental Affairs be substituted therefor and the substitute bill as amended by Committee on Revenue do pass. Signed by 12 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Anderson; Brown; Cothorn; Leonard; Morris; Romero; Rust; Talcott; and Thibaudeau.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Fuhrman, Assistant Ranking Minority Member; and Van Luven.

**Staff:** Keitlyn Watson (786-7310).

**Background:** The 1990 Federal Clean Air Act amendments require states to develop a renewable permitting program for "major" sources of air pollution. Major sources are defined as those sources capable of emitting 100 tons per year of a regulated pollutant; 10 tons per year of a single toxic pollutant; or 25 tons per year of multiple toxic pollutants. Federal law requires states to establish a fee structure that covers the direct and indirect costs of the permitting program.

The 1991 Washington State Clean Air Act established a five year renewable operating permit system consistent with the 1990 federal act. Under the state act, existing major sources are required to meet emission limitations through a level of air pollution control technology known as "RACT" (Reasonably Available Control Technology). The definition of RACT does not include any specific standards but does require consideration of a number of economic and environmental factors in establishing emission limits. New major sources are required to meet control technology requirements that are more stringent than RACT.

The 1991 Legislature established an interim fee of \$10 per ton on major sources of air pollution. The interim fee is used by ecology and local air pollution control authorities to develop the permitting program. The 1991 Legislature also directed ecology to make recommendations to the 1993 Legislature for a permanent fee structure for operating permits.

The 1991 state act did not alter the authority of local air authorities and ecology to register all pollution sources, to review and regulate new sources of pollution to prevent deterioration of existing air quality, or to impose RACT technology requirements.

**Summary of Bill:** Accountability provisions are established for three regulatory activities: new source review, control technology determinations, and renewable air operating permits. Fees for each of these activities are to be based on ecology's biennial workload, allow public review prior to adoption of rules, and establish a process for tracking expenditures and revenues.

The direct and indirect costs that can be charged in an air operating permit are defined. The direct and indirect costs

of the operating permit fee will be assessed to a major source based on three equally weighted criteria: 1) the number of major sources; 2) the complexity of those sources; and 3) the quantity of pollutants emitted. Fiscal and performance audits must be performed periodically on ecology and local air authorities.

By January 1, 1994, ecology must develop a schedule identifying the frequency with which sources will be subject to a RACT review. The schedule must be reviewed at least every five years. RACT rules in effect at the time of issuing an operating permit are to be incorporated into the operating permit.

By December 1, 1995, ecology must submit a report to the legislature on the need to develop an alternative fee schedule for major sources that become subject to permit fees after the effective date of this act.

**Fiscal Note:** Available. New fiscal note requested March 6, 1993.

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

**Testimony For:** (Environmental Affairs): The bill is necessary to allow the Department of Ecology and local air authorities to implement the air permit program required by federal law in a timely manner. The bill implements provisions that will provide accountability in ecology's fee-setting processes. Local authorities need greater flexibility in when they collect fees to avoid cash flow problems.

(Revenue): Passage of this bill will help achieve clean air in Washington. Federal law requires that fees pay for the costs of administering the air operating permits. The fee eligible costs in the bill were developed in an intensive process. Fees established will be workload driven, and this is an innovative approach to setting fees. This bill could serve as a model for future fee legislation.

**Testimony Against:** (Environmental Affairs): None.

(Revenue): None.

**Witnesses:** (Environmental Affairs): Jim Nolan, Puget Sound Air Pollution Control Agency (pro); Janet Chalupnik, Clean Air Coalition (pro); Bruce Wishart, Sierra Club (pro); Anne Robison, League of Women Voters (pro); David Smnkowski, The Boeing Company (pro); Bill Kidd, ARCO (pro); Kris Backes, Association of Washington Business (pro); Llewellyn

Matthews, Northwest Pulp and Paper (pro); Terry Nyman, Northwest Air Pollution Authority (pro); and Charles Peace, Olympic Air Pollution Control Authority (pro).

(Revenue): Representative Jeanne Kohl, prime sponsor (pro); Kris Backes, Association of Washington Business (pro); Anne Robison, League of Women Voters (pro); Joe Williams and Dave Bradley, Department of Ecology (pro); and Bruce Wishart, Sierra Club (pro).