

SENATE BILL REPORT

SB 6385

AS OF JANUARY 31, 1994

Brief Description: Consolidating environmental permit functions.

SPONSORS: Senators Fraser, Talmadge, Moore, Winsley and Skratek

SENATE COMMITTEE ON ECOLOGY & PARKS

Staff: Cathy Baker (786-7708)

Hearing Dates: January 31, 1994

BACKGROUND:

Over the last 20 years, federal and state environmental laws have evolved to address environmental pollutants on a media-specific basis. Enacted in 1972, the federal Clean Water Act regulates discharges of effluent through point sources to surface waters. The federal Clean Air Act, amended in 1990, requires states to administer an air quality operating permit program for industrial and commercial sources of air pollution. In general, the permit requirement applies to "major sources" emitting over 100 tons of pollutants annually. The federal Resource Conservation and Recovery Act (RCRA) of 1976 regulates the management of hazardous waste, including the regulation of waste generators, and those businesses that transport, treat, store or dispose of hazardous waste. There are also separate federal laws which regulate solid waste handling facilities, such as landfills, incinerators, and transfer stations. Most of the requirements of these federal laws have been delegated to the Department of Ecology.

The four main environmental operating permit programs include: wastewater discharge permits (water), air quality operating permits (air), requirements for hazardous waste generators (land), and permits for solid waste facilities (land). For the most part, each of these programs has its own set of technology-based and media-based standards, monitoring and reporting requirements, public participation procedures, appeal mechanisms, and funding sources. Administrative support functions for each of the programs are also largely separate, even though in some cases, they address the same pollutant sources and activities.

Although most environmental permits programs are managed separately, over the past twenty years there have been several efforts aimed at coordinating permit functions. The Environmental Procedures Coordination Act (ECPA) was enacted in 1973 in order to provide certainty, coordination and better public input in permits for the siting of certain projects. ECPA provided a permit identification process, a single public

hearing, and a single point of appeal. Although ECPA remains in statute, the coordination procedures have not been used since the early 1980s when funding for the program was eliminated.

The Industrial Section within the Department of Ecology is an administratively-created unit which handles all state-level operating permit requirements for three industries: (1) pulp and paper mills; (2) aluminum plants; and (3) oil refineries. The Industrial Section provides these regulated industries with a single point of contact with the department through one staff person who is assigned to their facility. That staff person coordinates functions relating to permits, regulatory orders, enforcement actions, inspections, and technical assistance for all media (land, air, water) for each facility.

The Energy Facility Site Evaluation Council (EFSEC) was created by legislation in 1970 in order to consolidate into one entity the state and local permitting responsibilities for siting energy facilities. The EFSEC statute prescribes a procedure for an energy facility proponent to apply for certification to site, construct, and operate a facility. The council makes a recommendation to the Governor, who makes the final decision on certification. Under the EFSEC statute, all state and local permits that would otherwise be required are preempted.

Permit integration and permit coordination have been identified as issues to be addressed in recent regulatory reform efforts. The Governor's Task Force on Regulatory Reform, created by Executive Order 93-06, has discussed the idea of creating administrative structures to allow for "one-stop shopping" for permits.

SUMMARY:

Findings are made that existing media-specific environmental operating permit programs increase administrative costs due to duplication, are confusing to applicants, and impede the achievement of comprehensive environmental protection strategies that address total pollutant emissions to all environmental media.

Findings are also made that the Legislature intends to create a single administrative unit within the Department of Ecology to integrate existing environmental permits, and to create procedures for integrating the administration of other permits issued by other units of government.

An environmental permits office is created within the Department of Ecology. By November 1, 1995, the director shall prepare an implementation plan for transferring existing permit programs for wastewater discharge permits, air quality operating permits, hazardous waste generators, and solid waste permits to the office of environmental permits. The plan may provide for phased compliance in transferring such functions up to June 30, 2001. The director's plan for transfer of such functions shall include the transfer of existing

administrative staff as is necessary to support the same functions within the environmental permits office. Functions relating to permit enforcement may be retained in other department programs.

Beginning November 1, 1996, the director shall report annually to the Governor and appropriate legislative committees on the status of implementing the office. The report shall include information on any federal or state statute that conflicts with the requirements of the multi-media permit integration law, including recommendations for resolving such conflicts.

The transfer and consolidation of functions within the environmental permits office shall not be the basis for any increase in applicable permit fees. The department is to report on whether reductions in permit fees may be achieved based on the projected implementation of consolidated procedures within the office.

For those facilities subject to two or more permits administered by the environmental permits office, the implementation plan shall provide for the following administrative initiatives: (1) a single, multi-media permit; (2) unified deadlines for expiration and renewal of a single, comprehensive permit; (3) a designated permit coordinator for each facility subject to a multimedia permit; (4) consolidating media-specific monitoring and compliance functions; (5) integrating compliance with the State Environmental Policy Act with major decisions relating to issuance and renewal of the multimedia permit; (6) providing comprehensive public participation procedures for the multimedia permit; and (7) providing a consolidated appeal procedure for the multimedia permit.

In implementing these consolidation initiatives, the director shall comply with substantive and procedural requirements of state and federal statutes relating to the media-specific program functions subject to consolidation.

Upon request of the holder of the permit for a facility, the Department of Ecology and other agencies administering an environmental permit for the facility shall negotiate an intergovernmental agreement for consolidated administration of environmental permits applicable to the facility. At a minimum the agreement should designate a single permit coordinator.

The environmental permits office shall emphasize pollution prevention as a cost-effective method of environmental protection in all aspects of administration of permits.

Before November 1, 1998, the department shall review the experience to date with the consolidation initiatives of the environmental permits office, and existing state and federal statutory requirements, and prepare a report to the Legislature on: (1) methods of monitoring and data management to comprehensively measure total pollutant emissions from single facilities, to measure pollutant loading trends over

time and over geographic areas; (2) the costs and benefits of programs for cross-media emission trades, and the role of multimedia permit programs in administering such programs; and (3) means to better integrate the environmental operating permit responsibilities of local, regional, state, and federal agencies. In preparing the report, the department shall consider the emission reduction goals and standards of existing state and federal environmental regulatory programs, and its recommendations shall be designed to achieve further emissions reductions.

Appropriation: none

Revenue: none

Fiscal Note: requested