

69th OREGON LEGISLATIVE ASSEMBLY--1997 Regular Session

Enrolled

House Bill 3457

Sponsored by Representative LEWIS (at the request of N.W. Pulp and Paper Association, Associated Oregon Industries)

CHAPTER

AN ACT

Relating to environmental excellence; appropriating money; limiting expenditures; and declaring an emergency.

Whereas protection of human health and the environment is vital to Oregon; and

Whereas the State of Oregon should encourage persons and organizations whose activities impact the environment to perform in a manner that provides superior protection and should allow, support and facilitate their achievement of superior environmental performance by the most economical means; and

Whereas regulatory flexibility can facilitate greater protection at lower cost and can promote cooperation among stakeholders; and

Whereas regulated entities should be encouraged to explore nontraditional solutions. In most cases, regulated entities understand the best ways to reduce their own pollution; and

Whereas environmental regulatory agencies face increasing demand on already limited resources and the public will benefit if private enterprises are both encouraged and allowed to bring their resources, energy, innovation and creativity to the task of reducing pollution and enhancing environmental protection; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. { + The purpose of sections 2 to 9 of this Act is to authorize:

(1) The issuance of Green Permits to persons regulated under the environmental laws of the State of Oregon.

(2) The Environmental Quality Commission to develop Green Permit criteria that will result in the use of innovative environmental approaches or strategies not otherwise recognized or allowed under existing regulations, to achieve environmental results that are significantly better than otherwise required by

law.

(3) An agency to provide or, where necessary, to seek exemptions or waivers from regulatory requirements as considered necessary to implement the provisions of sections 2 to 9 of this Act.

(4) An agency to encourage applications for Green Permits that promote pollution prevention, source reduction, more efficient use of natural resources, improvements in technology or practices, utilization of environmental management systems and creation of public and private entity partnerships that can

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achieve environmental results that are significantly better overall than otherwise required by law. + }

SECTION 2. { + As used in sections 2 to 9 of this Act:

(1) 'Agency' means either the Department of Environmental Quality or the Lane Regional Air Pollution Authority created pursuant to ORS 468A.010 to 468A.180, or both, as the context requires.

(2) 'Commission' means the Environmental Quality Commission.

(3) 'Environmental laws' means ORS 454.605 to 454.780, 459.005 to 459.153, 459.705 to 459.790, 459.992, 459.995, 465.003 to 465.034, 466.005 to 466.385, 468.005 to 468.997, 468A.005 to 468A.992 and 468B.005 to 468B.500 and rules adopted thereunder. 'Environmental laws' does not include any provision of Oregon Revised Statutes or of any municipal ordinance or enactment that regulates the selection of a location for a new facility.

(4) 'Facility' means any site or contiguous sites, any manufacturing operation or contiguous operations, or any business or municipal activity regulated under any provision of the environmental laws.

(5) 'Green Permit' means a permit that provides administrative benefits or reduces regulatory requirements to facilities that meet criteria established by the Environmental Quality Commission.

(6) 'Sponsor' means a person, group or association that submits a proposal under the Green Permit program. + }

SECTION 3. { + The Environmental Quality Commission shall establish by rule criteria for Green Permits and procedures for the application, review and public participation in the process of issuance of the permits. In establishing the criteria for Green Permits, the commission:

(1) Shall consider the objectives set forth in section 1 of this Act;

(2) May establish classes or categories of Green Permits as the commission considers appropriate; and

(3) May limit the number and duration of such permits issued by the agencies for the purpose of evaluating the effectiveness of the Green Permit program. + }

SECTION 4. { + Any person owning or operating a facility or contiguous facilities subject to regulation under the

environmental laws may act as a sponsor and propose a Green Permit. + }

SECTION 5. { + Notwithstanding any other provision of law, any requirement under the environmental laws, except those required by treaty or interstate compact or by a federal law, that is contrary to the terms and provisions of a Green Permit shall not apply to a facility operating under a Green Permit. Any prior conflicting permit condition shall be revised by the agency that has jurisdiction over the Green Permit. Except as specifically revised in a Green Permit, any existing environmental permit or requirement shall remain in effect, notwithstanding issuance of a Green Permit. + }

SECTION 6. { + The decision of an agency to refuse to issue a Green Permit is not subject to judicial review. The decision of an agency to issue a Green Permit may be appealed in accordance with the provisions of ORS 183.484 pertaining to review of an order in other than a contested case. + }

SECTION 7. { + If a sponsor operating a facility under a Green Permit fails to perform any term or condition in the Green Permit, the agency may, after written notice to the permittee, terminate the Green Permit in whole or in part. The permittee may

appeal the agency's decision to terminate a Green Permit to the Environmental Quality Commission. The commission's decision on appeal shall be an order in other than a contested case. + }

SECTION 8. { + After an agency issues a notice of termination of a Green Permit in the manner provided in section 7 of this Act, the operator of the facility shall have 30 days to apply for any permit or approval affected by the termination of all or a portion of the Green Permit. An application filed during the 30-day period shall be considered a timely application for renewal of a permit under the terms of the applicable law. The terms and conditions of the Green Permit shall continue in effect until a final permit or approval is issued or denied. In order to achieve an orderly transition and compliance with the environmental laws, the agency may issue an order establishing conditions for the interim operation of the facility. + }

SECTION 9. { + The agency shall recover the costs of the agency in developing, negotiating and publicizing a Green Permit in the following manner:

(1) The sponsor shall fully reimburse the agency for the agency's direct and indirect costs of conducting the review, negotiating the relevant permit revisions, responding to public comment, monitoring the provisions in the Green Permit and environmental outcomes resulting from the Green Permit and publicizing and conducting the public hearings.

(2) The agency shall appropriately document the direct and indirect costs of the agency and collect payment for such costs from the sponsor. The agency shall collect a deposit from the sponsor, against which the agency shall bill until the deposit is

depleted. When the deposit is depleted, the agency shall collect an additional deposit. The initial deposit shall accompany the sponsor's initial Green Permit proposal and shall be in the amount of \$5,000. The agency shall deliver to the sponsor an accounting of all charges and the amount of the deposit remaining at the closure of each month's accounting records.

(3) All moneys collected by the Department of Environmental Quality pursuant to this section shall be deposited into the General Fund of the State Treasury to an account of the Department of Environmental Quality. Such moneys are continuously appropriated to the Department of Environmental Quality for the payment of expenses of the Department of Environmental Quality in carrying out the provisions of sections 2 to 9 of this Act. The Director of the Department of Environmental Quality shall keep a record of all moneys deposited into the State Treasury pursuant to this section and shall indicate by special cumulative accounts the source from which moneys are derived and the individual activity against which each withdrawal is charged. The fees collected under this section by the Lane Regional Air Pollution Authority shall be retained by and shall be income to the regional authority. Such fees shall be accounted for and expended in the same manner as are the funds collected by the Department of Environmental Quality under this section. + }

SECTION 10. { + The Environmental Quality Commission shall submit a report to the Seventieth Legislative Assembly that addresses the status and success of the Green Permit program. The report may include recommendations regarding the continuation or modification of the program, development of other programs or the establishment of a permanent Green Permit program. + }

SECTION 11. { + An agency shall not issue a Green Permit after December 31, 2000. + }

SECTION 12. { + There is appropriated to the Department of Environmental Quality, for the biennium beginning July 1, 1997, out of the General Fund, the sum of \$70,000 for the purpose of carrying out this Act. + }

SECTION 13. { + Notwithstanding any other law, the limitation on expenditures established by section 2, chapter ____, Oregon Laws 1997 (Enrolled House Bill 5016), for the biennium beginning July 1, 1997, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, including receipts for federal contract services, but excluding lottery funds, collected or received by the Department of Environmental Quality, is increased by \$73,000 for the purpose of carrying out the provisions of this Act. + }

SECTION 14. { + This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1997. + }

Passed by House June 23, 1997

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Chief Clerk of House

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Speaker of House

Passed by Senate June 27, 1997

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President of Senate

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Received by Governor:

.....M.,....., 1997

Approved:

.....M.,....., 1997

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Governor

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.....M.,....., 1997

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Secretary of State

